



## CHAPTER 36.

### An Act respecting the Criminal Law.

#### SHORT TITLE.

1. This Act may be cited as the Criminal Code. R.S., Short title.  
c. 146, s. 1.

#### INTERPRETATION.

2. In this Act, unless the context otherwise requires, Definitions.
- (1) "any Act," or "any other Act," includes any Act "Any Act,"  
passed or to be passed by the Parliament of Canada, "Any other  
or any Act passed by the legislature of the late pro- Act."  
vince of Canada, or passed or to be passed by the  
legislature of any province of Canada, or passed by  
the legislature of any province now a part of Canada  
before it was included therein;
- (2) "Attorney General" means the Attorney General "Attorney  
or Solicitor General of any province in Canada in General."  
which any proceedings are taken under this Act, and,  
with respect to the Northwest Territories and the  
Yukon Territory, the Attorney General of Canada;
- (3) "banker" includes any director of any incorporated "Banker."  
bank or banking company;
- (4) "bank-note" includes all negotiable instruments "Bank-  
issued by or on behalf of any person, body corporate, note."  
or company carrying on the business of banking in  
any part of the world, or issued by the authority of  
the Parliament of Canada, or any Governor or other  
authority lawfully authorized thereto in any of His  
Majesty's dominions, or by the authority of any  
foreign prince, or state or government and intended  
to be used as equivalent to money, either immediately  
upon their issue or at some time subsequent thereto,  
and all bank bills and bank post bills;
- (5) "cattle" includes any horse, mule, ass, swine, sheep "Cattle."  
or goat, as well as any neat cattle or animal of the  
bovine species, and by whatever technical or familiar  
name known, and shall apply to one animal as well  
as to many;

"Chief constable."

(6) "chief constable" includes the chief of police, city marshal or other head of the police force of any city, town, incorporated village or other municipality, district or place, and in the province of Quebec, the high constable of the district, and means any constable of a municipality, district or place which has no chief constable or deputy chief constable;

"Court of Appeal."

(7) "court of appeal" includes,  
 (a) in the province of Ontario, the Appellate Division of the Supreme Court of Ontario,  
 (b) in the province of Quebec, the Court of King's Bench, appeal side,  
 (c) in the province of Nova Scotia, the Supreme Court in banc,  
 (d) in the province of New Brunswick, the Court of Appeal, otherwise known as the Appeal Division of the Supreme Court of New Brunswick,  
 (e) in the Province of British Columbia, the Court of Appeal,  
 (f) in the province of Prince Edward Island, the Supreme Court,  
 (g) in the province of Manitoba, the Court of Appeal,  
 (h) in the province of Saskatchewan, the Court of Appeal of the said province,  
 (i) in the province of Alberta, the Appellate Division of the Supreme Court of Alberta,  
 (j) in the Yukon Territory, the Court of Appeal of British Columbia;

"Copper coin."

(8) "copper coin" includes any coin of bronze or mixed metal and every other kind of coin other than gold or silver;

"Deputy chief constable."

(9) "deputy chief constable" includes deputy chief of police, deputy or assistant marshal or other deputy head of the police force of any city, town, incorporated village, or other municipality, district or place, and, in the province of Quebec, the deputy high constable of the district;

"District, county or place."

(10) "district, county or place," includes any division of any province of Canada for purposes relative to the administration of justice in the matter to which the context relates;

"Document of title to goods."

(11) "document of title to goods" includes any bill of lading, India warrant, dock warrant, warehousekeeper's certificate, warrant or order for the delivery or transfer of any goods or valuable thing, bought and sold note, or any other document used in the ordinary course of business as proof of the possession or control of goods, authorizing or purporting to authorize, either

by endorsement or by delivery, the possessor of such document to transfer or receive any goods thereby represented or therein mentioned or referred to;

- (12) "document of title to lands" includes any deed, map, paper or parchment, written or printed, or partly written and partly printed, being or containing evidence of the title, or any part of the title to any real property, or to any interest in any real property, or any notarial or registrar's copy thereof, or any duplicate instrument, memorial, certificate or document authorized or required by any law in force in any part of Canada respecting registration of titles, and relating to such title; "Document of title to lands."
- (13) "every one," "person," "owner," and other expressions of the same kind include His Majesty and all public bodies, bodies corporate, societies, companies, and inhabitants of counties, parishes, municipalities or other districts in relation to such acts and things as they are capable of doing and owning respectively; "Every one." "Person." "Owner."
- (14) "explosive substance" includes any materials for making an explosive substance; also any apparatus, machine, implement or materials, used or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; and also any part of any such apparatus, machine or implement; "Explosive substance."
- (15) "feeble-minded person," means a person in whose case there exists from birth or from an early age, mental defectiveness not amounting to imbecility yet so pronounced that he or she requires care, supervision and control for his or her own protection and for the protection of others; "Feeble-minded person."
- (16) "form" means a form in Part XXV of this Act; "Form."
- (17) "indictment" and "count" respectively include information and presentment as well as indictment, and also any plea, replication or other pleading, any formal charge under section eight hundred and seventy-three, and any record; "Indictment." "Count."
- (18) "intoxicating liquor" means and includes any alcoholic, spirituous, vinous, fermented or other intoxicating liquor, or any mixed liquor a part of which is spirituous or vinous, fermented or otherwise intoxicating, and any such liquor shall be presumed to be intoxicating if it contains more than two and one-half per cent of proof spirits; "Intoxicating liquor."
- (19) "justice" means a justice of the peace, and includes two or more justices, if two or more justices act or have jurisdiction, and also a police magistrate, a stipendiary

- stipendiary magistrate and any person having the power or authority of two or more justices of the peace;
- "Loaded arms." (20) "loaded arms" includes any gun, pistol or other arm loaded with gunpowder, or other explosive substance, and ball, shot, slug or other destructive material, or charged with compressed air and ball, shot, slug or other destructive material;
- "Military law." (21) "military law" includes the Militia Act and any orders, rules and regulations made thereunder, the King's Regulations and Orders for the Army; any Act of the United Kingdom or other law applying to His Majesty's troops in Canada and all other orders, rules and regulations of whatsoever nature or kind to which His Majesty's troops in Canada are subject;
- "Municipality." (22) "municipality" includes the corporation of any city, town, village, county, township, parish or other territorial or local division of any province of Canada, the inhabitants whereof are incorporated or have the right of holding property for any purpose;
- "Newspaper." (23) "newspaper," in the sections of the Act relating to defamatory libel, means any paper, magazine or periodical containing public news, intelligence or occurrences, or any remarks or observations thereon, printed for sale and published periodically or in parts or numbers, at intervals not exceeding thirty-one days between the publication of any two such papers, parts or numbers, and also any paper, magazine or periodical printed in order to be dispersed and made public, weekly or oftener, or at intervals not exceeding thirty-one days, and containing only or principally advertisements;
- "Night."  
"Night-time."  
"Day."  
"Day-time." (24) "night" or "night time" means the interval between nine o'clock in the afternoon and six o'clock in the forenoon of the following day, and "day" or "day time" includes the interval between six o'clock in the forenoon and nine o'clock in the afternoon of the same day;
- "Offensive weapon."  
"Weapon." (25) "offensive weapon" or "weapon" includes any gun or other firearm, or air-gun, or any part thereof, or any sword, sword blade, bayonet, pike, pike-head, spear, spear-head, dirk, dagger, knife, or other instrument intended for cutting or stabbing, or any metal knuckles, or other deadly or dangerous weapon, and any instrument or thing intended to be used as a weapon, and all ammunition which may be used with or for any weapon;
- "Part." (26) "Part" means a part of this Act;



- (27) "peace officer" includes a mayor, warden, reeve, sheriff, deputy sheriff, sheriff's officer, and justice of the peace, and also the warden, deputy warden, instructor, keeper, guard, or any other officer or permanent employee of a penitentiary and the gaoler or keeper of any prison and any police officer, police constable, bailiff, constable or other person employed for the preservation and maintenance of the public peace or for the service or execution of civil process;
- (28) "Police Magistrate" includes a deputy police magistrate having the powers of a police magistrate under the laws of the province; "Police Magistrate."
- (29) "prison" includes any penitentiary, common gaol, public or reformatory prison, lock-up, guard room or other place in which persons charged with the commission of offences are usually kept or detained in custody; "Prison."
- (30) "prize fight" means an encounter or fight with fists or hands, between two persons who have met for such purpose by previous arrangement made by or for them; "Prize fight."
- (31) "property" includes, "Property."
- (a) every kind of real and personal property, and all deeds and instruments relating to or evidencing the title or right to any property, or giving a right to recover or receive any money or goods,
  - (b) not only such property as was originally in the possession or under the control of any person, but also any property into or for which the same has been converted or exchanged and anything acquired by such conversion or exchange, whether immediately or otherwise,
  - (c) any postal card, postage stamp or other stamp issued or prepared for issue by the authority of the Parliament of Canada, or of the legislature of any province of Canada, for the payment to the Crown or any corporate body of any fee, rate or duty, and whether still in the possession of the Crown or of any person or corporation;
- (32) "public department" includes the Admiralty and War Department, and also any public department or office of the Government of Canada, or of the public or civil service thereof, or any branch of such department or office; "Public department."
- (33) "public officer" includes any excise or customs officer, officer of the army, navy, marine, militia, Royal Canadian Mounted Police, or other officer engaged in enforcing the laws relating to the revenue, customs, trade or navigation of Canada; "Public officer."

- "Public stores." (34) "public stores" includes all stores under the care, superintendence or control of any public department as herein defined, or of any person in the service of such department;
- "Section." (35) "section" means a section of this Act;
- "Shipwrecked person." (36) "shipwrecked person" includes any person belonging to, on board of, or having quitted any vessel wrecked, stranded or in distress at any place in Canada;
- "Stores." (37) "stores" includes all goods and chattels, and any single store or article;
- "Superior court of criminal jurisdiction." (38) "superior court of criminal jurisdiction" means and includes, the Courts following or such Courts as may be substituted therefor;  
 (a) in the province of Ontario, the Supreme Court of Ontario,  
 (b) in the province of Quebec, the Court of King's Bench,  
 (c) in the provinces of Nova Scotia, New Brunswick and Alberta, the Supreme Courts of the said provinces respectively,  
 (d) in the province of British Columbia, the Supreme Court and the Court of Appeal of that province,  
 (e) in the province of Prince Edward Island, the Supreme Court of Judicature,  
 (f) in the provinces of Manitoba and Saskatchewan, the Court of Appeal or the Court of King's Bench,  
 (g) in the Yukon Territory, the Territorial Court;
- "Territorial division." (39) "territorial division" includes any county, union of counties, township, city, town, parish or other judicial division or place to which the context applies;
- "Testamentary instrument." (40) "testamentary instrument" includes any will, codicil, or other testamentary writing or appointment, as well during the life of the testator whose testamentary disposition it purports to be as after his death, whether the same relates to real or personal property, or both;
- "Trade combination." (41) "trade combination" means any combination between masters or workmen or other persons for regulating or altering the relations between any persons being masters or workmen, or the conduct of any master or workman in or in respect of his business or employment, or contract of employment or service;
- "Trustee." (42) "trustee" means a trustee on some express trust created by some deed, will or instrument in writing, or by parole, or otherwise, and includes the heir or personal representative of any such trustee, and every other person upon or to whom the duty of such trust has devolved or come, whether by appointment of a

court or otherwise, and also an executor or administrator, and an official manager, assignee, liquidator or other like officer acting under any Act relating to joint stock companies, bankruptcy or insolvency, and any person who is, by the law of the province of Quebec, an *administrateur* or *fidéicommissaire*; and "trust" "Trust." includes whatever is by that law an *administration* or *fidéicommis*;

- (43) "valuable security" includes any order, exchequer acquittance or other security entitling or evidencing the title of any person to any share or interest in any public stock or fund, whether of Canada or of any province thereof, or of the United Kingdom, or of Great Britain or Ireland, or of any British colony or possession, or of any foreign state, or in any fund of any body corporate, company or society, whether within Canada or the United Kingdom, or any British colony or possession, or in any foreign state or country, or to any deposit in any savings bank or other bank, and also includes any debenture, deed, bond, bill, note, warrant, order or other security for money or for payment of money, whether of Canada or of any province thereof, or of the United Kingdom, or of any British colony or possession, or of any foreign state, and any document of title to lands or goods wheresoever such lands or goods are situate, and any stamp or writing which secures or evidences title to or interest in any chattel personal, or any release, receipt, discharge or other instrument, evidencing payment of money, or the delivery of any chattel personal; "Valuable security."
- (44) "wreck" includes the cargo, stores and tackle of any vessel and all parts of a vessel separated therefrom, and also the property of shipwrecked persons; "Wreck."
- (45) "writing" includes any mode in which, and any material on which, words or figures, whether at length or abridged, are written, printed or otherwise expressed, or any map or plan is inscribed; "Writing."
- (46) in Part XII and in Parts XXII, XXIII and XXIV of this Act "Part III" means such section or sections of the said Part as are in force by virtue of any proclamation in the place or places with reference to which the Part is to be construed and applied; and "a commissioner" means a commissioner under Part III. "A commissioner."

2. For the purposes of this Act a person shall be deemed to have been of a given age when the anniversary of his birthday, the number of which corresponds to that age, shall have been fully completed, and until then to have been

Determination of age.

under that age. R.S., c. 146, s. 2; 1907, c. 8, s. 2; 1907, c. 9, s. 1; 1908, c. 10, s. 4; 1912, c. 56, s. 4; 1913, c. 13, s. 3; 1920, c. 43, s. 1; 1922, c. 16, s. 10; 1925, c. 38, ss. 1 and 2.

Post card  
a chattel  
value.

**3.** For the purpose of this Act a postal card or any stamp referred to in the last preceding section shall be deemed to be a chattel, and to be equal in value to the amount of the postage, rate or duty expressed on its face in words or figures or both. R.S., c. 146, s. 3.

Valuable  
security.

**4.** Valuable security shall, where value is material, be deemed to be of value equal to that of the unsatisfied money, chattel personal, share, interest or deposit, for the securing or payment of which, or delivery or transfer or sale of which, or for the entitling or evidencing title to which, such valuable security is applicable or to that of such money or chattel personal, the payment or delivery of which is evidenced by such valuable security. R.S., c. 146, s. 4.

Finding  
indict-  
ment.

**5.** In this Act, unless the context otherwise requires,

(a) finding the indictment includes also exhibiting an information and making a presentment;

Possession.

(b) having in one's possession includes not only having in one's own personal possession, but also knowingly,

(i) having in the actual possession or custody of any other person, and

(ii) having in any place, whether belonging to or occupied by one's self or not, for the use or benefit of one's self or of any other person.

Joint  
possession.

**2.** If there are two or more persons, and any one or more of them, with the knowledge and consent of the rest, has or have anything in his or their custody or possession, it shall be deemed and taken to be in the custody and possession of each and all of them. R.S., c. 146, s. 5.

Meaning  
of expres-  
sions in  
other Acts.

**6.** In every case in which the offence dealt with in this Act relates to the subject treated of in any other Act the words and expressions used herein in respect to such offence shall have the meaning assigned to them in such other Act. R.S., c. 146, s. 6.

Carnal  
knowledge.

**7.** Carnal knowledge is complete upon penetration to any, even the slightest degree, and even without the emission of seed. R.S., c. 146, s. 7.

## PART I.

## GENERAL.

*Application of this Act.*

**8.** Nothing in this Act shall affect any of the laws relating to the government of His Majesty's land or naval forces. R.S., c. 146, s. 8. This Act not to affect H.M. forces.

**9.** The provisions of this Act shall extend to and be in force throughout Canada, except Application of Act to Alberta and the Territories.

(a) in the Northwest Territories in so far as they are inconsistent with the Northwest Territories Act;

(b) in the Yukon Territory in so far as they are inconsistent with the Yukon Act;

(c) in the Province of Alberta in so far as they are inconsistent with the Northwest Territories Act and amendments thereto as the same existed immediately before the first day of September, one thousand nine hundred and five, but with such changes as have been subsequently made by competent authority. R.S. (1886), c. 50; 1905, c. 3; R.S. (1906), c. 146, s. 9.

*Application of the Criminal Law of England.*

**10.** The criminal law of England, as it existed on the seventeenth day of September, one thousand seven hundred and ninety-two, in so far as it has not been repealed by any Act of the Parliament of the United Kingdom having force of law in the province of Ontario, or by any Act of Parliament of the late province of Upper Canada, or of the province of Canada, still having force of law, or by this Act or any other Act of the Parliament of Canada, and as altered, varied, modified or affected by any such Act, shall be the criminal law of the province of Ontario. R.S., c. 146, s. 10. Criminal law of England applicable to Ontario.

**11.** The criminal law of England as it existed on the nineteenth day of November, one thousand eight hundred and fifty-eight, in so far as it has not been repealed by any ordinance or Act, still having the force of law, of the colony of British Columbia, or the colony of Vancouver Island, passed before the union of the said colonies, or of the colony of British Columbia passed since such union, or by this Act or any other Act of the Parliament of Canada, and as altered, varied, modified or affected by any such ordinance or Act, shall be the criminal law of the province of British Columbia. R.S., c. 146, s. 11. Criminal law of England applicable to British Columbia.

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**12.**

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Criminal  
law of  
England  
applicable  
to  
Manitoba.

**12.** The criminal law of England as it existed on the fifteenth day of July, one thousand eight hundred and seventy, in so far as it is applicable to the province of Manitoba, and in so far as it has not been repealed, as to the Province, by any Act of the Parliament of the United Kingdom, or by this Act or any other Act of the Parliament of Canada, and as altered, varied, modified or affected, as to the Province, by any such Act, shall be the criminal law of the province of Manitoba. R.S., c. 146, s. 12.

*Effect of Act on Remedies.*

Civil rem-  
edy not  
suspended.

**13.** No civil remedy for any act or omission shall be suspended or affected by reason that such act or omission amounts to a criminal offence. R.S., c. 146, s. 13.

Distinction  
between  
felony and  
misde-  
meanour  
abolished.

**14.** The distinction between felony and misdemeanour is abolished, and proceedings in respect of all indictable offences, except so far as they are herein varied, shall be conducted in the same manner. R.S., c. 146, s. 14.

When  
offense  
punishable  
under more  
than one  
Act or law.

**15.** Where an act or omission constitutes an offence, punishable on summary conviction or on indictment, under two or more Acts, or both under an Act and at common law, the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished under either or any of such Acts, or at common law, but shall not be liable to be punished twice for the same offence. R.S., c. 146, s. 15.

*Justification or Excuse.*

Common  
law rule in  
force.

**16.** All rules and principles of the common law which render any circumstances a justification or excuse for any act, or a defence to any charge, shall remain in force and be applicable to any defence to a charge under this Act except in so far as they are hereby altered or are inconsistent herewith. R.S., c. 146, s. 16.

Children  
under  
seven.

**17.** No person shall be convicted of an offence by reason of any act or omission of such person when under the age of seven years. R.S., c. 146, s. 17.

Children  
between  
seven and  
fourteen.

**18.** No person shall be convicted of an offence by reason of an act or omission of such person when of the age of seven, but under the age of fourteen years, unless he was competent to know the nature and consequences of his conduct, and to appreciate that it was wrong. R.S., c. 146, s. 18.

Insanity.

**19.** No person shall be convicted of an offence by reason of an act done or omitted by him when labouring under natural imbecility, or disease of the mind, to such an extent

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as to render him incapable of appreciating the nature and quality of the act or omission, and of knowing that such an act or omission was wrong.

2. A person labouring under specific delusions, but in other respects sane, shall not be acquitted on the ground of insanity, under the provisions hereinafter contained, unless the delusions caused him to believe in the existence of some state of things which, if it existed, would justify or excuse his act or omission. Delusions.

3. Every one shall be presumed to be sane at the time of doing or omitting to do any act until the contrary is proved. R.S., c. 146, s. 19. Presumption of sanity.

**20.** Except as hereinafter provided, compulsion by threats of immediate death or grievous bodily harm from a person actually present at the commission of the offence shall be an excuse for the commission, by a person subject to such threats and who believes such threats will be executed, and who is not a party to any association or conspiracy, the being a party to which rendered him subject to compulsion, of any offence other than treason as defined by this Act, murder, piracy, offences deemed to be piracy, attempting to murder, assisting in rape, forcible abduction, robbery, causing grievous bodily harm, and arson. R.S., c. 146, s. 20. Compulsion by threats.

**21.** No presumption shall be made that a married woman committing an offence does so under compulsion because she commits it in the presence of her husband. R.S., c. 146, s. 21. Compulsion of wife.

**22.** The fact that an offender is ignorant of the law is not an excuse for any offence committed by him. R.S., c. 146, s. 22. Ignorance of the law.

**23.** Every ministerial officer of any court authorized to execute a lawful sentence, and every gaoler, and every person lawfully assisting such ministerial officer or gaoler, is justified in executing such sentence. R.S., c. 146, s. 23. Execution of sentence.

**24.** Every ministerial officer of any court duly authorized to execute any lawful process of such court, whether of a civil or criminal nature, and every person lawfully assisting him, is justified in executing the same. Execution of process.

2. Every gaoler who is required under such process to receive and detain any person is justified in receiving and detaining him. R.S., c. 146, s. 24. Gaoler.

**25.** Every one duly authorized to execute a lawful warrant issued by any court or justice of the peace or other person having jurisdiction to issue such warrant, and every person lawfully assisting him, is justified in executing such warrant. Execution of warrants.

Gaoler.

2. Every gaoler who is required under such warrant to receive and detain any person is justified in receiving and detaining him. R.S., c. 146, s. 25.

Execution  
of erron-  
eous sen-  
tence or  
process.

**26.** If a sentence is passed or process issued by a court having jurisdiction under any circumstances to pass the sentence or issue such process, or if a warrant is issued by a court, justice or person having jurisdiction under any circumstances to issue the warrant, the sentence passed or process or warrant issued shall be sufficient to justify the officer or person thereby authorized, to execute the same, and every gaoler and person lawfully assisting in executing or carrying out such sentence, process or warrant, although the court passing the sentence or issuing the process had not in the particular case authority to pass the sentence or to issue the process, or although the court, justice or other person in the particular case had no jurisdiction to issue, or exceeded its or his jurisdiction in issuing, the warrant, or was, at the time when such sentence was passed or process or warrant issued, out of the district in or for which such court, justice or person was entitled to act. R.S., c. 146, s. 26.

Sentence  
or process  
without  
jurisdic-  
tion.

**27.** Every officer, gaoler or person executing any sentence, process or warrant, and every person lawfully assisting such officer, gaoler or person, shall be protected from criminal responsibility if he acts in good faith under the belief that the sentence or process was that of a court having jurisdiction, or that the warrant was that of a court, justice or other person having authority to issue warrants, and if it be proved that the person passing the sentence or issuing the process acted as a court under colour of having some appointment or commission lawfully authorizing him to so act, or that the person issuing the warrant acted as a court, justice or other person having such authority, although in fact such appointment or commission did not exist or had expired, or although in fact the court or the person passing the sentence or issuing the process was not the court or the person authorized by the commission to act, or the person issuing the warrant was not duly authorized so to act. R.S., c. 146, s. 27.

Arresting  
wrong  
person.

**28.** Every one duly authorized to execute a warrant to arrest, who thereupon arrests a person, believing in good faith and on reasonable and probable grounds that he is the person named in the warrant, shall be protected from criminal responsibility to the same extent and subject to the same provisions as if the person arrested had been the person named in the warrant.

Assisting  
in such  
arrest.

2. Every one called on to assist the person making such arrest, and believing that the person in whose arrest he is called on to assist is the person for whose arrest the war-



rant is issued, and every gaoler who is required to receive and detain such person, shall be protected to the same extent and subject to the same provisions as if the arrested person had been the person named in the warrant. R.S., c. 146, s. 28. Gaoler.

**29.** Every one acting under a warrant or process which is bad in law on account of some defect in substance or in form apparent on the face of it, if he in good faith and without culpable ignorance and negligence believes that the warrant or process is good in law, shall be protected from criminal responsibility to the same extent and subject to the same provisions as if the warrant or process were good in law, and ignorance of the law shall in such case be an excuse. Irregular warrant or process.

2. It shall be a question of law whether the facts of which there is evidence may or may not constitute culpable ignorance or negligence in the belief of such person that the warrant or process is good in law. R.S., c. 146, s. 29. Question of law.

**30.** Every peace officer who, on reasonable and probable grounds, believes that an offence for which the offender may be arrested without warrant has been committed, whether it has been committed or not, and who, on reasonable and probable grounds, believes that any person has committed that offence, is justified in arresting such person without warrant, whether such person is guilty or not. R.S., c. 146, s. 30. Arrest by peace officer.

**31.** Every one called upon to assist a peace officer in the arrest of a person suspected of having committed the offence mentioned in the last preceding section, is justified in assisting, if he knows that the person calling on him for assistance is a peace officer, and does not know that there is no reasonable ground for the suspicion. R.S., c. 146, s. 31. Persons assisting peace officer.

**32.** Every one is justified in arresting without warrant any person whom he finds committing any offence for which the offender may be arrested without warrant, or may be arrested when found committing. R.S., c. 146, s. 32. Arrest of persons found committing offence.

**33.** If any offence for which the offender may be arrested without warrant has been committed, any one who, on reasonable and probable grounds, believes that any person is guilty of that offence is justified in arresting him without warrant, whether such person is guilty or not. R.S., c. 146, s. 33. Arrest after commission of certain offences.

Arrest  
during night.

**34.** Every one is protected from criminal responsibility for arresting without warrant any person whom he, on reasonable and probable grounds, believes he finds committing by night any offence for which the offender may be arrested without warrant. R.S., c. 146, s. 34.

While  
committing  
offence.

**35.** Every peace officer is justified in arresting without warrant any person whom he finds committing any offence. R.S., c. 146, s. 35.

By night.

**36.** Every one is justified in arresting without warrant any person whom he finds by night committing any offence.

Loitering  
by night.

2. Every peace officer is justified in arresting without warrant any person whom he finds lying or loitering in any highway, yard or other place by night, and whom he has good cause to suspect of having committed or being about to commit any offence for which an offender may be arrested without warrant. R.S., c. 146, s. 36.

Arrest  
during  
flight.

**37.** Every one is protected from criminal responsibility for arresting without warrant any person whom he, on reasonable and probable grounds, believes to have committed an offence and to be escaping from and to be freshly pursued by those whom he, on reasonable and probable grounds, believes to have lawful authority to arrest that person for such offence. R.S., c. 146, s. 37.

Statutory  
power of  
arrest.

**38.** Nothing in this Act shall take away or diminish any authority given by any Act in force for the time being to arrest, detain or put any restraint on any person. R.S., c. 146, s. 38.

Force in  
executing  
warrant,  
process or  
sentence.

**39.** Every one executing any sentence, warrant or process, or in making any arrest, and every one lawfully assisting him, is justified, or protected from criminal responsibility, as the case may be, in using such force as may be necessary to overcome any force used in resisting such execution or arrest, unless the sentence, process or warrant can be executed or the arrest effected by reasonable means in a less violent manner. R.S., c. 146, s. 39.

Duty of  
person  
arresting.  
Notice.

**40.** It is the duty of every one executing any process or warrant to have it with him, and to produce it if required.

2. It is the duty of every one arresting another, whether with or without warrant, to give notice, where practicable, of the process or warrant under which he acts, or of the cause of the arrest.

Failure  
in duty.

3. A failure to fulfil either of the two duties last mentioned shall not of itself deprive the person executing the process or warrant, or his assistants, or the person arresting, of protection from criminal responsibility, but shall

be relevant to the inquiry whether the process or warrant might not have been executed, or the arrest effected, by reasonable means in a less violent manner. R.S., c. 146, s. 40.

**41.** Every peace officer proceeding lawfully to arrest, with or without warrant, any person for any offence for which the offender may be arrested without warrant, and every one lawfully assisting in such arrest, is justified, if the person to be arrested takes to flight to avoid arrest, in using such force as may be necessary to prevent his escape by such flight, unless such escape can be prevented by reasonable means in a less violent manner. R.S., c. 146, s. 41.

Peace officer  
preventing  
escape.

**42.** Every private person proceeding lawfully to arrest without warrant any person for any offence for which the offender may be arrested without warrant is justified, if the person to be arrested takes to flight to avoid arrest, in using such force as may be necessary to prevent his escape by flight, unless such escape can be prevented by reasonable means in a less violent manner, if such force is neither intended nor likely to cause death or grievous bodily harm. R.S., c. 146, s. 42.

Private  
person  
preventing  
escape.

**43.** Every one proceeding lawfully to arrest any person for any cause other than an offence in the last section mentioned is justified, if the person to be arrested takes to flight to avoid arrest, in using such force as may be necessary to prevent his escape by flight, unless such escape can be prevented by reasonable means in a less violent manner, if such force is neither intended nor likely to cause death or grievous bodily harm. R.S., c. 146, s. 43.

Preventing  
escape  
in other  
cases.

**44.** Every one who has lawfully arrested any person for any offence for which the offender may be arrested without warrant is protected from criminal responsibility in using such force in order to prevent the rescue or escape of the person arrested as he believes, on reasonable grounds, to be necessary for that purpose. R.S., c. 146, s. 44.

Preventing  
escape or  
rescue  
of arrested  
person.

**45.** Every one who has lawfully arrested any person for any cause other than an offence for which the offender may be arrested without warrant is protected from criminal responsibility in using such force in order to prevent his escape or rescue as he believes, on reasonable grounds, to be necessary for that purpose, if such force is neither intended nor likely to cause death or grievous bodily harm. R.S., c. 146, s. 45.

Idem.

**46.** Every one who witnesses a breach of the peace is justified in interfering to prevent its continuance or renewal and may detain any person committing or about to

Preventing  
breach of  
peace.

join in or renew such breach of the peace, in order to give him into the custody of a peace officer, if the person interfering uses no more force than is reasonably necessary for preventing the continuance or renewal of such breach of the peace, or than is reasonably proportioned to the danger to be apprehended from the continuance or renewal of such breach of the peace. R.S., c. 146, s. 46.

Arrest in  
such case.

**47.** Every peace officer who witnesses a breach of the peace, and every person lawfully assisting him, is justified in arresting any one whom he finds committing such breach of the peace, or whom he, on reasonable and probable grounds, believes to be about to join in or renew such breach of the peace.

Giving  
person  
in charge.

2. Every peace officer is justified in receiving into custody any person given into his charge as having been a party to a breach of the peace by one who has, or whom such peace officer, upon reasonable and probable grounds, believes to have, witnessed such breach of the peace. R.S., c. 146, s. 47.

Suppres-  
sion of  
riot by  
magistrate,  
etc.

**48.** Every sheriff, deputy sheriff, mayor or other head officer or acting head officer of any county, city, town or district, and every magistrate and justice of the peace, is justified in using, and ordering to be used, and every peace officer is justified in using, such force as he, in good faith, and on reasonable and probable grounds, believes to be necessary to suppress a riot, and as is not disproportioned to the danger which he, on reasonable and probable grounds, believes to be apprehended from the continuance of the riot. R.S., c. 146, s. 48.

Suppres-  
sion of riot  
by persons  
commanded  
thereto.

**49.** Every one, whether subject to military law or not, acting in good faith in obedience to orders given by any sheriff, deputy sheriff, mayor or other head officer or acting head officer of any county, city, town or district, or by any magistrate or justice, for the suppression of a riot, is justified in obeying the orders so given unless such orders are manifestly unlawful, and is protected from criminal responsibility in using such force as he, on reasonable and probable grounds, believes to be necessary for carrying into effect such orders.

Question  
of law.

2. It shall be a question of law whether any particular order is manifestly unlawful or not. R.S., c. 146, s. 49.

Suppres-  
sion of riot  
by persons  
apprehend-  
ing serious  
mischief.

**50.** Every one, whether subject to military law or not, who in good faith and on reasonable and probable grounds believes that serious mischief will arise from a riot before there is time to procure the intervention of any of the authorities aforesaid, is justified in using such force as he, in good faith and on reasonable and probable grounds, believes

believes to be necessary for the suppression of such riot, and as is not disproportioned to the danger which he, on reasonable grounds, believes to be apprehended from the continuance of the riot. R.S., c. 146, s. 50.

**51.** Every one who is bound by military law to obey the lawful command of his superior officer is justified in obeying any command given him by his superior officer for the suppression of a riot, unless such order is manifestly unlawful. Protection of persons subject to military law.

2. It shall be a question of law whether any particular order is manifestly unlawful or not. R.S., c. 146, s. 51. Question of law.

**52.** Every one is justified in using such force as may be reasonably necessary in order Use of force.

(a) to prevent the commission of any offence for which, if committed, the offender might be arrested without warrant, and the commission of which would be likely to cause immediate and serious injury to the person or property of any one; or To prevent commission of offence.

(b) to prevent any act being done which he, on reasonable grounds, believes would, if committed, amount to any such offence. R.S., c. 146, s. 52. Act amounting to offence.

**53.** Every one unlawfully assaulted, not having provoked such assault, is justified in repelling force by force, if the force he uses is not meant to cause death or grievous bodily harm, and is no more than is necessary for the purpose of self-defence. Self-defence against unprovoked assault.

2. Every one so assaulted is justified, though he causes death or grievous bodily harm, if he causes it under reasonable apprehension of death or grievous bodily harm from the violence with which the assault was originally made or with which the assailant pursues his purposes, and if he believes, on reasonable grounds, that he cannot otherwise preserve himself from death or grievous bodily harm. Extent justified.

3. Provocation within the meaning of this section may be given by blows, words or gestures. R.S., c. 146, ss. 53 and 54. Provocation.

**54.** Every one who has without justification assaulted another, or has provoked an assault from that other, may nevertheless justify force subsequent to such assault, if he uses such force under reasonable apprehension of death or grievous bodily harm from the violence of the person first assaulted or provoked, and in the belief, on reasonable grounds, that it is necessary for his own preservation from death or grievous bodily harm, if he did not commence the assault with intent to kill or do grievous bodily harm, and did not endeavour, at any time before the necessity for preserving himself arose, to kill or do grievous bodily

bodily harm, and if before such necessity arose, he declined further conflict, and quitted or retreated from it as far as was practicable.

Provoca-  
tion.

2. Provocation, within the meaning of this section may be given by blows, words or gestures. R.S., c. 146, s. 54.

Prevention  
of insulting  
assault.

**55.** Every one is justified in using force in defence of his own person, or that of any one under his protection, from an assault accompanied with insult, if he uses no more force than is necessary to prevent such assault, or the repetition of it.

Dispropor-  
tionate hurt  
not  
justified.

2. This section shall not justify the wilful infliction of any hurt or mischief disproportionate to the insult which the force used was intended to prevent. R.S., c. 146, s. 55.

Defence  
of movable  
property.

**56.** Every one who is in peaceable possession of any movable property or thing, and every one lawfully assisting him, is justified in resisting the taking of such thing by any trespasser, or in retaking it from such trespasser, if in either case he does not strike or do bodily harm to such trespasser.

Assault by  
trespasser.

2. If, after any one, being in peaceable possession as aforesaid, has laid hands upon any such thing, such trespasser persists in attempting to keep it or take it from the possessor, or from any one lawfully assisting him, the trespasser shall be deemed to commit an assault without justification or provocation. R.S., c. 146, s. 56.

Defence  
with claim  
of right.

**57.** Every one who is in peaceable possession of any movable property or thing under a claim of right, and every one acting under his authority, is protected from criminal responsibility for defending such possession, even against a person entitled by law to the possession of such property or thing, if he uses no more force than is necessary. R.S., c. 146, s. 57.

Defence  
without  
claim of  
right.

**58.** Every one who is in peaceable possession of any movable property or thing, but neither claims right thereto, nor acts under the authority of a person claiming right thereto, is neither justified nor protected from criminal responsibility for defending his possession against a person entitled by law to the possession of such property or thing. R.S., c. 146, s. 58.

Defence of  
dwelling  
house.

**59.** Every one who is in peaceable possession of a dwelling house, and every one lawfully assisting him or acting by his authority, is justified in using such force as is necessary to prevent the forcible breaking and entering of such dwelling house, either by night or day, by any person with the intent to commit any indictable offence therein. R.S., c. 146, s. 59.

**60.** Every one who is in peaceable possession of a dwelling house, and every one lawfully assisting him or acting by his authority, is justified in using such force as is necessary to prevent the forcible breaking and entering of such dwelling house by night by any person, if he believes, on reasonable and probable grounds, that such breaking and entering is attempted with the intent to commit any indictable offence therein. R.S., c. 146, s. 60.

Same at night.

**61.** Every one who is in peaceable possession of any house or land, or other real property, and every one lawfully assisting him or acting by his authority, is justified in using force to prevent any person from trespassing on such property, or to remove him therefrom, if he uses no more force than is necessary.

Defence of real property.

2. If such trespasser resists such attempt to prevent his entry or to remove him such trespasser shall be deemed to commit an assault without justification or provocation. R.S., c. 146, s. 61.

Assault by trespasser.

**62.** Every one is justified in peaceably entering in the daytime to take possession of any house or land to the possession of which he, or some person under whose authority he acts, is lawfully entitled.

Assertion of right to house or land.

2. If any person, not having or acting under the authority of one having peaceable possession of any such house or land with a claim of right, assaults any one peaceably entering as aforesaid, for the purpose of making him desist from such entry, such assault shall be deemed to be without justification or provocation.

Assault in case of lawful entry.

3. If any person having peaceable possession of such house or land with a claim of right, or any person acting by his authority, assaults any one entering as aforesaid, for the purpose of making him desist from such entry, such assault shall be deemed to be provoked by the person entering. R.S., c. 146, s. 62.

Trespasser provoking.

**63.** It is lawful for every parent, or person in the place of a parent, schoolmaster or master, to use force by way of correction towards any child, pupil or apprentice under his care, provided that such force is reasonable under the circumstances. R.S., c. 146, s. 63.

Correction of child by force.

**64.** It is lawful for the master or officer in command of a ship on a voyage to use force for the purpose of maintaining good order and discipline on board of his ship, provided that he believes, on reasonable grounds, that such force is necessary, and provided also that the force used is reasonable in degree. R.S., c. 146, s. 64.

Master of ship.

Surgical  
operations.

**65.** Every one is protected from the criminal responsibility for performing with reasonable care and skill any surgical operation upon any person for his benefit, provided that performing the operation was reasonable, having regard to the patient's state at the time, and to all the circumstances of the case. R.S., c. 146, s. 65.

Excess.

**66.** Every one authorized by law to use force is criminally responsible for any excess, according to the nature and quality of the act which constitutes the excess. R.S., c. 146, s. 66.

Consent  
to death.

**67.** No one has a right to consent to the infliction of death upon himself.

Causing  
death with  
consent.

2. If such consent is given, it shall have no effect upon the criminal responsibility of any person by whom such death may be caused. R.S., c. 146, s. 67.

Obedience  
to *de facto*  
law.

**68.** Every one is protected from criminal responsibility for any act done in obedience to the laws for the time being, made and enforced by those in possession *de facto* of the sovereign power in and over the place where the act is done. R.S., c. 146, s. 68.

#### *Parties to Offences.*

Who  
parties to  
offence.

**69.** Every one is a party to and guilty of an offence who

- (a) actually commits it;
- (b) does or omits an act for the purpose of aiding any person to commit the offence;
- (c) abets any person in commission of the offence; or
- (d) counsels or procures any person to commit the offence.

Common  
intention  
by several  
persons.

2. If several persons form a common intention to prosecute any unlawful purpose, and to assist each other therein, each of them is a party to every offence committed by any one of them in the prosecution of such common purpose, the commission of which offence was, or ought to have been known to be a probable consequence of the prosecution of such common purpose. R.S., c. 146, s. 69.

Person  
counselling  
offence.

**70.** Every one who counsels or procures another person to be a party to an offence of which that person is afterwards guilty, is a party to that offence, although it may be committed in a way different from that which was counselled or suggested.

Idem.

2. Every one who counsels or procures another to be a party to an offence is a party to every offence which that other commits in consequence of such counselling or procuring, and which the person counselling or procuring knew,



knew, or ought to have known, to be likely to be committed in consequence of such counselling or procuring. R.S., c. 146, s. 70.

**71.** An accessory after the fact to an offence is one who receives, comforts or assists any one who has been a party to such offence in order to enable him to escape, knowing him to have been a party thereto. Accessory after the fact.

2. No married person whose husband or wife has been a party to an offence shall become an accessory after the fact thereto by receiving, comforting or assisting the other of them, and no married woman whose husband has been a party to an offence shall become an accessory after the fact thereto, by receiving, comforting or assisting in his presence and by his authority any other person who has been a party to such offence in order to enable her husband or such other person to escape. R.S., c. 146, s. 71. Husband or wife.

**72.** Every one who, having an intent to commit an offence, does or omits an act for the purpose of accomplishing his object is guilty of an attempt to commit the offence intended whether under the circumstances it was possible to commit such offence or not. Attempts.

2. The question whether an act done or omitted with intent to commit an offence is or is not only preparation for the commission of that offence, and too remote to constitute an attempt to commit it, is a question of law. R.S., c. 146, s. 72. Question of law.

## PART II.

### OFFENCES AGAINST PUBLIC ORDER, INTERNAL AND EXTERNAL.

#### *Interpretation.*

**73.** In the sections of this Part relating to information illegally obtained or communicated, unless the context otherwise requires, As to information illegally obtained or communicated.

(a) any reference to a place belonging to His Majesty includes a place belonging to any department of the Government of the United Kingdom, or of the Government of Canada, or of any province, whether the place is or is not actually vested in His Majesty; Reference to place.

(b) expressions referring to communications include any communication, whether in whole or in part, and whether the document, sketch, plan, model or information itself or the substance or effect thereof only be communicated; Reference to communications.

(c) "document" includes part of a document; "Document."

(d) "model" includes design, pattern and specimen; "Model."

- "Sketch." (e) "sketch" includes any photograph or other mode of expression of any place or thing;
- "Office under His Majesty." (f) "office under His Majesty" includes any office or employment in or under any department of the Government of the United Kingdom, or of the Government of Canada, or of any province. R.S., c. 146, s. 73.

*Treason and other Offences against the King's Authority and Person.*

**Treason.**

**74. Treason is**

- Bodily harm to His Majesty. (a) the act of killing His Majesty, or doing him any bodily harm tending to death or destruction, maim or wounding, and the act of imprisoning or restraining him; or
- Intention with overt act. (b) the forming and manifesting by any overt act an intention to kill His Majesty, or to do him any bodily harm tending to death or destruction, maim or wounding, or to imprison or to restrain him; or
- Killing heir apparent or consort. (c) the act of killing the eldest son and heir apparent of His Majesty, or the Queen consort of any King of the United Kingdom of Great Britain and Ireland; or
- Intention with overt act. (d) the forming and manifesting, by an overt act, an intention to kill the eldest son and heir apparent of His Majesty, or the Queen consort of any King of the United Kingdom of Great Britain and Ireland; or
- Conspiring to do His Majesty bodily harm. (e) conspiring with any person to kill His Majesty, or to do him any bodily harm tending to death or destruction, maim or wounding, or conspiring with any person to imprison or restrain him; or
- Levying war. (f) levying war against His Majesty either
- To depose His Majesty. (i) with intent to depose His Majesty from the style, honour and royal name of the Imperial Crown of the United Kingdom of Great Britain and Ireland or of any other of His Majesty's dominions or countries, or
- To overawe His Majesty. (ii) in order, by force or constraint, to compel His Majesty to change his measures or counsels, or in order to intimidate or overawe both Houses or either House of Parliament of the United Kingdom or of Canada; or
- Conspiring to levy war. (g) conspiring to levy war against His Majesty with any such intent or for any such purpose as aforesaid; or
- Instigating invasion. (h) instigating any foreigner with force to invade the said United Kingdom or Canada or any other of the dominions of His Majesty; or
- Assisting enemy. (i) assisting any public enemy at war with His Majesty in such war by any means whatsoever; or

(j) violating, whether with her consent or not, a Queen consort, or the wife of the eldest son and heir apparent, for the time being, of the King or Queen regnant.

Violating  
person of  
wife of  
heir  
apparent.  
Penalty.

2. Every one who commits treason is guilty of an indictable offence and liable to suffer death. R.S., c. 146, s. 74.

**75.** In every case in which it is treason to conspire with any person for any purpose, the act of so conspiring, and every overt act of any such conspiracy, is an overt act of treason. R.S., c. 146, s. 75.

Overt act.

**76.** Every one is guilty of an indictable offence and liable to two years' imprisonment who

Penalty.

(a) incites or assists any subject of any foreign state or country at war with His Majesty to leave Canada without the consent of the Crown, unless the person accused can prove that assistance to the enemy was not intended, and provided that such inciting or assisting do not amount to treason;

Assisting,  
etc., alien  
enemies to  
leave  
Canada.

(b) becomes an accessory, after the fact, to treason; or

Accessories  
after the  
fact.

(c) knowing that any person is about to commit treason does not, with all reasonable despatch, give information thereof to a justice of the peace, or use other reasonable endeavours to prevent the commission of the same. R.S., c. 146, s. 76; 1915, c. 12, s. 2.

Omitting  
to prevent  
treason.

**77.** Every subject or citizen of any foreign state or country at peace with His Majesty, who

Levying  
war by sub-  
ject of a  
state at  
peace with  
His  
Majesty.

(a) is or continues in arms against His Majesty within Canada; or

(b) commits any act of hostility therein; or

(c) enters Canada with intent to levy war against His Majesty, or to commit any indictable offence therein for which any person would, in Canada, be liable to suffer death; and

every subject of His Majesty who

Subjects  
assisting.

(a) within Canada levies war against His Majesty in company with any of the subjects or citizens of any foreign state or country at peace with His Majesty; or

(b) enters Canada in company with any such subjects or citizens with intent to levy war against His Majesty, or to commit any such offence therein; or

(c) with intent to aid and assist, joins himself to any person who has entered Canada with intent to levy war against His Majesty, or to commit any such offence in Canada;

is guilty of an indictable offence and liable to suffer death. R.S., c. 146, s. 77.

Penalty.

Treason-  
able  
offences.

Intention  
to depose  
His  
Majesty.

Intention  
to levy  
war.

Intention  
to induce  
invasion.

Manifesta-  
tion.

Conspiracy  
to intimi-  
date a  
legislature.

Assaults  
upon the  
King.

Acts in-  
tended to  
alarm or  
injure the  
King.

Other sim-  
ilar acts.

**78.** Every one is guilty of an indictable offence and liable to imprisonment for life who forms,

(a) an intention to depose His Majesty from the style, honour and royal name of the Imperial Crown of the United Kingdom of Great Britain and Ireland, or of any other of His Majesty's dominions or countries; or

(b) an intention to levy war against His Majesty within any part of the said United Kingdom, or of Canada, in order by force or constraint to compel him to change his measures or counsels, or in order to put any force or constraint upon or in order to intimidate or overawe both Houses or either House of Parliament of the United Kingdom or of Canada; or

(c) an intention to move or stir any foreigner or stranger with force to invade the said United Kingdom, or Canada, or any other of His Majesty's dominions or countries under the authority of His Majesty;

and manifests any such intention by conspiring with any person to carry it into effect, or by any other overt act, or by publishing any printing or writing. R.S., c. 146, s. 78.

**79.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who confederates, combines or conspires with any person to do any act of violence in order to intimidate, or to put any force or constraint upon, any legislative council, legislative assembly or house of assembly. R.S., c. 146, s. 79.

**80.** Every one is guilty of an indictable offence and liable to seven years' imprisonment, and to be whipped once, twice or thrice as the court directs, who

(a) wilfully produces, or has, near His Majesty, any arm or destructive or dangerous thing with intent to use the same to injure the person of, or to alarm His Majesty; or

(b) wilfully and with intent to alarm or to injure His Majesty, or to break the public peace,

(i) points, aims or presents, or attempts to point, aim or present, at or near His Majesty, any firearm, loaded or not, or any other kind of arm,

(ii) discharges or attempts to discharge at or near His Majesty any loaded arm,

(iii) discharges or attempts to discharge any explosive material near His Majesty,

(iv) strikes, or strikes at, or attempts to strike, or strike at, His Majesty in any manner whatever,

(v) throws, or attempts to throw, anything at or upon His Majesty. R.S., c. 146, s. 80.

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**81.**

**81.** Every one is guilty of an indictable offence and liable to imprisonment for life, who for any traitorous or mutinous purpose, endeavours to seduce any person serving in His Majesty's forces by sea or land from his duty and allegiance to His Majesty, or to incite or stir up any such person to commit any traitorous or mutinous practice. R.S., c. 146, s. 81. Inciting to mutiny.

**82.** Every one is guilty of an offence punishable on indictment, or on summary conviction before two justices, who, not being an enlisted soldier in His Majesty's service, or a seaman in His Majesty's naval service, Offence.

- (a) by words or with money, or by any other means whatsoever, directly or indirectly, persuades or procures, or goes about or endeavours to persuade, prevail on or procure, any such seaman or soldier to desert from or leave His Majesty's military or naval service; or Persuading to desert.
- (b) conceals, receives or assists any deserter from His Majesty's military or naval service, knowing him to be such deserter; Concealing deserter.

and is liable, on conviction under indictment, to fine and imprisonment in the discretion of the court, and on summary conviction before two justices, to a penalty not exceeding two hundred dollars, and not less than eighty dollars and costs, and in default of payment to imprisonment for any term not exceeding six months. R.S., c. 146, s. 82. Penalty.

**83.** Every one who resists the execution of any warrant authorizing the breaking open of any building to search for any deserter from His Majesty's military or naval service is guilty of an offence and liable, on summary conviction before two justices, to a penalty of eighty dollars. R.S., c. 146, s. 83. Resisting execution of search warrant.

**84.** Every one is guilty of an offence and liable, on summary conviction, to six months' imprisonment with or without hard labour, who Penalty.

- (a) persuades any man who has been enlisted to serve in any corps of militia, or who is a member of or has engaged to serve in the Royal Canadian Mounted Police Force, to desert, or attempts to procure or persuade any such man to desert; or Persuading men to desert.
- (b) knowing that any such man is about to desert, aids or assists him in deserting; or Assisting.
- (c) knowing that any such man is a deserter, conceals him or aids or assists in his rescue. R.S., c. 146, s. 84. Concealing.

*Information Illegally Obtained or Communicated.*

Penalty.

**85.** Every one is guilty of an indictable offence and liable to imprisonment for one year, or to a fine not exceeding one hundred dollars, or to both imprisonment and fine, who

For purposes of unlawfully obtaining. Entering fortress, etc.

(a) for the purpose of wrongfully obtaining information,

(i) enters or is in any part of a fortress, arsenal, factory, dockyard, camp, ship, office or other like place in Canada belonging to His Majesty, in which part he is not entitled to be, or

Obtaining after entry.

(ii) when lawfully or unlawfully in any such place as aforesaid, either obtains any documents, sketch, plan, model or knowledge of anything, which he is not entitled to obtain, or takes without lawful authority any sketch or plan, or

Attempting to take sketch, etc., when outside.

(iii) when outside any fortress, arsenal, factory, dockyard or camp in Canada, belonging to His Majesty, takes, or attempts to take, without authority given by or on behalf of His Majesty, any sketch or plan of that fortress, arsenal, factory, dockyard or camp; or

Communication without authority.

(b) knowingly having possession of or control over any document, sketch, plan, model, or knowledge obtained or taken by means of any act which constitutes an offence against this and the next following section, at any time wilfully and without lawful authority communicates or attempts to communicate the same to any person to whom the same ought not, in the interests of the state, to be communicated at that time; or

Communication in breach of confidence.

(c) after having been entrusted in confidence by some officer under His Majesty with any document, sketch, plan, model or information relating to any such place as aforesaid, or to the naval or military affairs of His Majesty, wilfully, and in breach of such confidence, communicates the same when, in the interests of the state, it ought not to be communicated; or

Communication to improper persons.

(d) having possession of any document relating to any fortress, arsenal, factory, dockyard, camp, ship, office or other like place belonging to His Majesty, or to the naval or military affairs of His Majesty, in whatever manner the same has been obtained or taken, at any time wilfully communicates the same to any person to whom he knows the same ought not, in the interests of the state, to be then communicated.

Information for foreign state.

**2.** Every one who commits any such offence intending to communicate to a foreign state any information, document, sketch, plan, model or knowledge obtained or taken

by him, or entrusted to him as aforesaid, or communicates the same to any agent of a foreign state, is guilty of an indictable offence and liable to imprisonment for life. *Penalty.* R.S., c. 146, s. 85.

**86.** Every one who, by means of his holding or having held an office under His Majesty, has lawfully or unlawfully either obtained possession of or control over any document, sketch, plan or model, or acquired any information, and at any time corruptly, or contrary to his official duty, communicates or attempts to communicate such document, sketch, plan, model or information to any person to whom the same ought not, in the interests of the state, or otherwise in the public interest, to be then communicated, is guilty of an indictable offence and liable, *Communicating information acquired in office.*

(a) if the communication was made, or attempted to be made, to a foreign state, to imprisonment for life; *Penalty.*  
and

(b) in any other case, to imprisonment for one year, or to a fine not exceeding one hundred dollars, or to both imprisonment and fine. *Idem.*

2. This section shall apply to a person holding a contract with His Majesty, or with any department of the Government of the United Kingdom, or of the Government of Canada, or of any province, or with the holder of any office under His Majesty as such holder, where such contract involves an obligation of secrecy, and to any person employed by any person or body of persons holding such a contract who is under a like obligation of secrecy, as if the person holding the contract, and the person so employed, were respectively holders of an office under His Majesty. *Application of section.* R.S., c. 146, s. 86.

### *Unlawful Assemblies and Riots.*

**87.** An unlawful assembly is an assembly of three or more persons who, with intent to carry out any common purpose, assemble in such a manner or so conduct themselves when assembled as to cause persons in the neighbourhood of such assembly to fear, on reasonable grounds, that the persons so assembled will disturb the peace tumultuously, or will by such assembly needlessly and without any reasonable occasion provoke other persons to disturb the peace tumultuously. *Definition of unlawful assembly.*

2. Persons lawfully assembled may become an unlawful assembly if they conduct themselves with a common purpose in such a manner as would have made their assembling unlawful if they had assembled in that manner for that purpose. *Intention not necessary.*

3. An assembly of three or more persons for the purpose of protecting the house of any one of their number against *Exception.*

persons threatening to break and enter such house in order to commit any indictable offence therein is not unlawful. R.S., c. 146, s. 87.

Definition  
of riot.

**88.** A riot is an unlawful assembly which has begun to disturb the peace tumultuously. R.S., c. 146, s. 88.

Punishment  
of unlawful  
assembly.

**89.** Every member of an unlawful assembly is guilty of an indictable offence and liable to one year's imprisonment. R.S., c. 146, s. 89.

Punish-  
ment of  
rioter.

**90.** Every rioter is guilty of an indictable offence and liable to two years' imprisonment with hard labour. R.S., c. 146, s. 90.

Reading  
the Riot  
Act.

**91.** It is the duty of every sheriff, deputy sheriff, mayor or other head officer, and justice, of any county, city or town, who has notice that there are within his jurisdiction persons to the number of twelve or more unlawfully, riotously and tumultuously assembled together to the disturbance of the public peace, to resort to the place where such unlawful, riotous and tumultuous assembly is, and among the rioters, or as near to them as he can safely come, with a loud voice to command or cause to be commanded silence, and after that openly and with loud voice to make or cause to be made a proclamation in these words or to the like effect:—

Proclama-  
tion.

“Our Sovereign Lord the King charges and commands all persons being assembled immediately to disperse and peaceably to depart to their habitations or to their lawful business, upon the pain of being guilty of an offence on conviction of which they may be sentenced to imprisonment for life.

“GOD SAVE THE KING.”

R.S., c. 146, s. 91.

Penalty.

**92.** All persons are guilty of an indictable offence and liable to imprisonment for life who,

Preventing  
proclama-  
tion.

(a) with force and arms wilfully oppose, hinder or hurt any person who begins or is about to make the said proclamation, whereby such proclamation is not made; or

Not dis-  
persing.

(b) continue together to the number of twelve for thirty minutes after such proclamation has been made, or if they know that its making was hindered as aforesaid, within thirty minutes after such hindrance.

R.S., c. 146, s. 92.



**93.** If the persons so unlawfully, riotously and tumultuously assembled together, or twelve or more of them, continue together, and do not disperse themselves, for the space of thirty minutes after the proclamation is made or after such hindrance as aforesaid, it is the duty of every such sheriff, justice and other officer, and of all persons required by them to assist, to cause such persons to be apprehended and carried before a justice.

Duty of officers if rioters do not disperse.

2. If any of the persons so assembled are killed or hurt in the apprehension of such persons or in the endeavour to apprehend or disperse them, by reason of their resistance, every person ordering them to be apprehended or dispersed, and every person executing such orders, are indemnified against all proceedings of every kind in respect thereof.

Indemnification of officers.

3. Nothing in this section contained shall, in any way, limit or affect any duties or powers imposed or given by this Act as to the suppression of riots before or after the making of the said proclamation. R.S., c. 146, s. 93.

Section not restrictive.

**94.** Every sheriff, deputy sheriff, mayor or other head officer, justice or other magistrate, or other peace officer, of any county, city, town, or district, who has notice that there is a riot within his jurisdiction, who, without reasonable excuse omits to do his duty in suppressing such riot, is guilty of an indictable offence and liable to two years' imprisonment. R.S., c. 146, s. 94.

Neglect of peace officer to suppress riot.

**95.** Every one is guilty of an indictable offence and liable to one year's imprisonment who, having reasonable notice that he is required to assist any sheriff, deputy sheriff, mayor, or other head officer, justice, magistrate, or peace officer in suppressing any riot, without reasonable excuse omits to do so. R.S., c. 146, s. 95.

Neglect to aid peace officer thereat.

**96.** All persons are guilty of an indictable offence and liable to imprisonment for life who, being riotously and tumultuously assembled together to the disturbance of the public peace, unlawfully and with force demolish or pull down, or begin to demolish or pull down, any building, or any machinery, whether fixed or movable, or any erection used in farming land, or in carrying on any trade or manufacture, or any erection or structure used in conducting the business of any mine, or any bridge, wagonway or track for conveying minerals from any mine. R.S., c. 146, s. 96.

Riotous destruction of property.

**97.** All persons are guilty of an indictable offence and liable to seven years' imprisonment who, being riotously and tumultuously assembled together to the disturbance

Riotous damage to property.

of the public peace, unlawfully and with force injure or damage any of the things mentioned in the last preceding section.

*Bona fides*  
no  
defence.

2. It shall not be a defence to a charge of an offence against this or the last preceding section that the offender believed he had a right to act as he did, unless he actually had such a right. R.S., c. 146, s. 97.

*Promoting Changes by Unlawful Means.*

Unlawful  
associa-  
tions.

**98.** Any association, organization, society or corporation, whose professed purpose or one of whose purposes is to bring about any governmental, industrial or economic change within Canada by use of force, violence or physical injury to person or property, or by threats of such injury, or which teaches, advocates, advises or defends the use of force, violence, terrorism, or physical injury to person or property, or threats of such injury, in order to accomplish such change, or for any other purpose, or which shall by any means prosecute or pursue such purpose or professed purpose, or shall so teach, advocate, advise or defend, shall be an unlawful association.

Property  
may be  
seized and  
forfeited.

2. Any property, real or personal, belonging or suspected to belong to an unlawful association, or held or suspected to be held by any person for or on behalf thereof may, without warrant, be seized or taken possession of by any person thereunto authorized by the Commissioner of the Royal Canadian Mounted Police, and may thereupon be forfeited to His Majesty.

Persons  
acting as  
officers,  
etc., liable.

3. Any person who acts or professes to act as an officer of any such unlawful association, and who shall sell, speak, write or publish anything as the representative or professed representative of any such unlawful association, or become and continue to be a member thereof, or wear, carry or cause to be displayed upon or about his person or elsewhere, any badge, insignia, emblem, banner, motto, pennant, card, button or other device whatsoever, indicating or intended to show or suggest that he is a member of or in anywise associated with any such unlawful association, or who shall contribute anything as dues or otherwise, to it or to any one for it, or who shall solicit subscriptions or contributions for it, shall be guilty of an offence and liable to imprisonment for not more than twenty years.

Evidence of  
member-  
ship.

4. In any prosecution under this section, if it be proved that the person charged has

- (a) attended meetings of an unlawful association; or
- (b) spoken publicly in advocacy of an unlawful association; or

(c) distributed literature of an unlawful association by circulation through the Post Office mails of Canada, or otherwise;

it shall be presumed, in the absence of proof to the contrary, that he is a member of such unlawful association.

5. Any owner, lessee, agent or superintendent of any building, room, premises or place, who knowingly permits therein any meeting of an unlawful association or any subsidiary association or branch or committee thereof, or any assemblage of persons who teach, advocate, advise or defend the use, without authority of the law, of force, violence or physical injury to person or property, or threats of such injury, shall be guilty of an offence under this section and shall be liable to a fine of not more than five thousand dollars or to imprisonment for not more than five years, or to both fine and imprisonment.

Owner,  
etc., of  
building  
who know-  
ingly  
permits  
meeting  
liable.

6. If any judge of any superior or county court, police or stipendiary magistrate, or any justice of the peace, is satisfied by information on oath that there is reasonable ground for suspecting that any contravention of this section has been or is about to be committed, he may issue a search warrant under his hand, authorizing any peace officer, police officer, or constable, with such assistance as he may require, to enter at any time any premises or place mentioned in the warrant, and to search such premises or place, and every person found therein, and to seize and carry away any books, periodicals, pamphlets, pictures, papers, circulars, cards, letters, writings, prints, handbills, posters, publications or documents which are found on or in such premises or place, or in the possession of any person therein at the time of such search, and the same, when so seized may be carried away and may be forfeited to His Majesty.

Search  
warrant  
may be  
issued.

7. Where, by this section, it is provided that any property may be forfeited to His Majesty, the forfeiture may be adjudged or declared by any judge of any superior or county court, or by any police or stipendiary magistrate, or by any justice of the peace, in a summary manner, and by the procedure provided by Part XV of this Act, in so far as applicable, or subject to such adaptations as may be necessary to meet the circumstances of the case.

Procedure.

8. Any person who prints, publishes, edits, issues, circulates, sells, or offers for sale or distribution any book, newspaper, periodical, pamphlet, picture, paper, circular, card, letter, writing, print, publication or document of any kind, in which is taught, advocated, advised or defended, or who shall in any manner teach, advocate, or advise or defend the use, without authority of law, of force, violence, terrorism, or physical injury to person or property,

Publishing,  
etc.,  
seditious  
books, etc.

erty, or threats of such injury, as a means of accomplishing any governmental, industrial or economic change, or otherwise, shall be guilty of an offence and liable to imprisonment for not more than twenty years.

Circulating  
books,  
newspapers,  
etc.

9. Any person who circulates or attempts to circulate or distribute any book, newspaper, periodical, pamphlet, picture, paper, circular, card, letter, writing, print, publication, or document of any kind, as described in this section by mailing the same or causing the same to be mailed or posted in any post office, letter box, or other mail receptacle in Canada, shall be guilty of an offence, and shall be liable to imprisonment for not more than twenty years.

Importing  
publications,  
etc.

10. Any person who imports into Canada from any other country, or attempts to import by or through any means whatsoever, any book, newspaper, periodical, pamphlet, picture, paper, circular, card, letter, writing, print, publication or document of any kind as described in this section, shall be guilty of an offence and shall be liable to imprisonment for not more than twenty years.

Duty of  
Government  
employees.

11. It shall be the duty of every person in the employment of His Majesty in respect of His Government of Canada, either in the Post Office Department, or in any other Department to seize and take possession of any book, newspaper, periodical, pamphlet, picture, paper, circular, card, letter, writing, print, publication or document, as mentioned in this section, upon discovery of the same in the Post Office mails of Canada or in or upon any station, wharf, yard, car, truck, motor or other vehicle, steamboat or other vessel upon which the same may be found and when so seized and taken, without delay to transmit the same, together with the envelopes, coverings and wrappings attached thereto, to the Commissioner of the Royal Canadian Mounted Police. 1919, c. 46, s. 1.

#### *Unlawful Drilling.*

Prohibition of as-  
semblies.

**99.** The Governor in Council is authorized from time to time to prohibit assemblies, without lawful authority, of persons for the purpose of training or drilling themselves, or of being trained or drilled to the use of arms, or for the purpose of practising military exercises, movements or evolutions, and to prohibit persons when assembled for any other purpose from so training or drilling themselves or being trained or drilled.

General  
or special.

2. Any such prohibition may be general or may apply only to a particular place or district or to assemblies of a particular character, and shall come into operation from the publication in the *Canada Gazette* of a proclamation embodying the terms of such prohibition, and shall continue in force until the like publication of a proclamation issued by the authority of the Governor in Council revoking such prohibition.

3. Every person is guilty of an indictable offence and Penalty. liable to two years' imprisonment who, without lawful authority and in contravention of such prohibition or proclamation,

(a) is present at or attends any such assembly for the purpose of training or drilling any other person to the use of arms or the practice of military exercises or evolutions; or Being present for purpose of drilling others.

(b) at any assembly trains or drills any other person to the use of arms or the practice of military exercises or evolutions. Drilling others.

4. Every one is guilty of an indictable offence and Being unlawfully drilled. liable to two years' imprisonment who, without lawful authority, attends, or is present at, any such assembly as in this section mentioned, for the purpose of being, or who at any such assembly is, without lawful authority and in contravention of such prohibition or proclamation, trained or drilled to the use of arms or the practice of military exercises or evolutions. R.S., c. 146, ss. 98 and 99.

#### *Affrays and Duels.*

**100.** An affray is the act of fighting in any public street or highway, or fighting to the alarm of the public in any other place to which the public have access. Definition of affray.

2. Every one who takes part in an affray is guilty of an indictable offence and Penalty. liable to one year's imprisonment with hard labour. R.S., c. 146, s. 100.

**101.** Every one is guilty of an indictable offence and Challenge to fight a duel. liable to three years' imprisonment who challenges or endeavours by any means to provoke any person to fight a duel, or endeavours to provoke any person to challenge any other person so to do. R.S., c. 146, s. 101.

#### *Forcible Entry and Detainer.*

**102.** Forcible entry is where a person, whether entitled or not, enters in a manner likely to cause a breach of the peace, or reasonable apprehension thereof, on land then in actual and peaceable possession of another. Definition of forcible entry.

2. Forcible detainer is where a person in actual possession of land, without colour of right, detains it in a manner likely to cause a breach of the peace, or reasonable apprehension thereof, against a person entitled by law to the possession thereof. Definition of forcible detainer.

3. What amounts to actual possession or colour of right is a question of law. R.S., c. 146, s. 102. Question of law.

**103.** Every one who forcibly enters or forcibly detains land is guilty of an indictable offence and Penalty. liable to one year's imprisonment. R.S., c. 146, s. 103.

*Prize Fights.*

Challeng-  
ing, etc.

**104.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding one thousand dollars and not less than one hundred dollars, or to imprisonment for a term not exceeding six months, with or without hard labour, or to both, who sends or publishes, or causes to be sent or published or otherwise made known, any challenge to fight a prize fight, or accepts any such challenge, or causes the same to be accepted, or goes into training preparatory to such fight, or acts as trainer or second to any person who intends to engage in a prize fight. R.S., c. 146, s. 104.

Accepting  
challenge,  
etc.

Engaging  
as  
principals.

**105.** Every one is guilty of an offence and liable, on summary conviction, to imprisonment for a term not exceeding twelve months and not less than three months, with or without hard labour, who engages as a principal in a prize fight. R.S., c. 146, s. 105.

Attending  
or  
promoting.

**106.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding five hundred dollars and not less than fifty dollars, or to imprisonment for a term not exceeding twelve months, with or without hard labour, or to both, who is present at a prize fight as an aid, second, surgeon, umpire, backer, assistant or reporter, or who advises, encourages or promotes such fight. R.S., c. 146, s. 106.

Leaving  
Canada to  
engage  
in prize  
fight.

**107.** Every inhabitant or resident of Canada is guilty of an offence and liable, on summary conviction, to a penalty not exceeding four hundred dollars and not less than fifty dollars, or to imprisonment for a term not exceeding six months, with or without hard labour, or to both, who leaves Canada with intent to engage in a prize fight without the limits thereof. R.S., c. 146, s. 107.

When  
fight is  
not a prize  
fight.

**108.** If, after hearing evidence of the circumstances connected with the origin of the fight or intended fight, the person before whom the complaint is made is satisfied that such fight or intended fight was *bona fide* the consequence or result of a quarrel or dispute between the principals engaged or intended to engage therein, and that the same was not an encounter or fight for a prize, or on the result of which the handing over or transfer of money or property depended, such person may, in his discretion, discharge the accused or impose upon him a penalty not exceeding fifty dollars. R.S., s. 146, s. 108.

Discharge  
or fine.

*Inciting Indians.*

**109.** Every one is guilty of an indictable offence and Penalty. liable of two years' imprisonment who induces, incites or stirs up any three or more Indians, non-treaty Indians, or half-breeds, apparently acting in concert,

(a) to make any request or demand of any agent or Riotous request. servant of the Government in a riotous, routous, disorderly or threatening manner, or in a manner calculated to cause a breach of the peace; or

(b) to do any act calculated to cause a breach of the Breach of peace. peace. R.S., c. 146, s. 109.

**110.** Every one who incites any Indian to commit any Indictable offence. indictable offence is guilty of an indictable offence and liable to imprisonment for any term not exceeding five years. R.S., c. 146, s. 110.

*Explosive Substances.*

**111.** Every one is guilty of an indictable offence and Causing dangerous explosions. liable to imprisonment for life who wilfully causes, by any explosive substance, an explosion of a nature likely to endanger life or to cause serious injury to property, whether any injury to person or property is actually caused or not. R.S., c. 146, s. 111.

**112.** Every one is guilty of an indictable offence and Attempt to destroy property with explosives. liable to fourteen years' imprisonment who wilfully places or throws any explosive substance into or near any building or ship with intent to destroy or damage the same or any machinery, working tools, or chattels whatever whether or not an explosion takes place. R.S., c. 146, s. 112.

**113.** Every one who wilfully,

(a) does any act with intent to cause by an explosive substance, or conspires to cause by an explosive substance, an explosion of a nature likely to endanger life, or to cause serious injury to property; or

(b) makes or has in his possession or under his control any explosive substance with intent by means thereof to endanger life or to cause serious injury to property, or to enable any other person by means thereof to endanger life or to cause serious injury to property;

Doing anything with intent to cause an explosion.

Making or possessing explosives.

is guilty of an indictable offence and Penalty. liable to fourteen years' imprisonment, whether an explosion takes place or not, and whether an injury to person or property is actually caused or not. R.S., c. 146, s. 113.

Making or  
possessing  
explosives.

**114.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who makes, or knowingly has in his possession or under his control, any explosive substance under such circumstances as to give rise to a reasonable suspicion that he is not making it, or has it not in his possession or under his control, for a lawful object, unless he can show that he made it or had it in his possession or under his control for a lawful object.

Penalty for  
having  
without  
lawful  
excuse a  
bomb, etc.

2. Every one is guilty of an indictable offence and liable to seven years' imprisonment who without lawful excuse has in his possession any bomb, grenade or other device or contrivance made or intended for a similar use or purpose, and such possession shall be *prima facie* evidence of such unlawful possession. R.S., c. 146, s. 114; 1921, c. 25, s. 1.

### *Offensive Weapons.*

Possession  
of  
weapon.

**115.** Every one is guilty of an indictable offence and liable to five years' imprisonment who has in his custody or possession, or carries any offensive weapon for any purpose dangerous to the public peace. R.S., c. 146, s. 115.

Openly  
carrying  
weapons.

( **116.** If two or more persons openly carry offensive weapons in a public place in such manner and under such circumstances as are calculated to create terror and alarm, each of such persons is liable, on summary conviction before two justices, to a penalty not exceeding forty dollars and not less than ten dollars, and in default of payment to imprisonment for any term not exceeding thirty days. R.S., c. 146, s. 116.

Smuggler  
carrying  
weapons.

**117.** Every one is guilty of an indictable offence and liable to imprisonment for ten years who, while carrying offensive weapons, is found with any goods liable to seizure or forfeiture under any law relating to excise, the customs, trade or navigation, knowing such goods to be so liable. R.S., c. 146, s. 117.

Dangerous  
weapons.

**118.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding one hundred dollars and costs or to imprisonment for three months, or to both fine and costs and imprisonment, who,

Permit  
required  
for fire-  
arms and  
certain  
weapons.

(a) not having a permit in Form 76, has upon his person, elsewhere than in his own dwelling house, shop, warehouse, counting-house, or premises, or is carrying concealed, a pistol, revolver, sheath knife,  
698 bowie

R.S., 1927.



bowie knife, dagger, stiletto, metal knuckles, skull cracker or other offensive weapon that may be concealed upon the person; or

(b) sells or, without lawful excuse, gives or lends any such offensive weapon, firearm, airgun, device or contrivance to any one not being the holder of a permit; Selling or lending.

(c) in the case of a sale, neglects to keep a record of such sale, the date thereof, the name of the purchaser, such sufficient description of the weapon, firearm, airgun, device or contrivance sold as may be necessary to identify it, the date and place of issue of the permit and the name and office of the issuer of the permit, or neglects to send a duplicate of such record by registered mail to the person who issued such permit or neglects to endorse upon such permit, the date and place of sale, the said description of the weapon, firearm, airgun, device or contrivance and the name of the vendor; or Not recording sale.

(d) being authorized to issue a permit, issues it without keeping a duplicate thereof as a record, or having issued a permit fails to keep any record received by him of sales of weapons, devices or contrivances to the holder thereof; or Failure to keep duplicate of permit.

(e) being an alien has in his possession any pistol, revolver, shot gun, rifle or other firearm or any ammunition for any firearm or any offensive weapon without having a permit therefor, which permit may be issued in the same manner by the same persons and as near as may be in the same form as in the case of the other permits referred to in this section; or Aliens not to have firearms or weapons without a permit.

(f) issues a permit without lawful authority.

2. Upon sufficient cause being shown, any officer of the Royal Canadian Mounted Police or of a provincial police or detective force, or any stipendiary or district magistrate or police magistrate or acting police magistrate or sheriff or chief constable of any city, incorporated town or district municipality, or any person authorized under the law of any province to issue licenses or permits to carry firearms, or to hunt or shoot, or any officer or class of officers or persons thereto authorized by the Governor in Council, may grant any applicant therefor as to whose discretion and good character he is satisfied a permit in Form 76, for such period not exceeding twelve months as he deems fit. Persons who may issue permits.

3. Such permit, upon the trial of an offence, shall be *prima facie* evidence of its contents and of the signature and official character of the person by whom it purports to be granted. Evidence.

4. Whenever the Governor in Council deems it expedient in the public interest he may by proclamation Powers of Governor in Council

to restrict  
possession  
of arms.

(a) suspend the operation of any of the provisions of this section in any part of Canada and for such period as he deems fit; or

(b) forbid for such period as he deems fit the having in possession in such portion of Canada as may be named in the proclamation any firearm, air gun or other weapon or any device or contrivance for muffling or stopping the sound of the report of any firearm, without a permit therefor, which permit may be issued in the same manner by the same persons and as near as may be in the same form as in the case of other permits referred to in this section; and upon the issue of such proclamation the provisions of this section forbidding the sale to a person who has not a permit and requiring a record to be kept of sales shall apply to the weapons and other articles mentioned in such proclamation.

Immigra-  
tion officers  
added to  
those who  
may carry  
weapons.

5. Nothing in this section shall apply to the having upon his person or the carrying by any member of His Majesty's Naval, Military or Militia Forces, or by any peace officer or immigration officer of any weapons, devices or contrivances which he is by law permitted or authorized so to have or carry, or to any *bona fide* sale made by any manufacturer or person trading wholesale in such weapons, devices or contrivances to any person *bona fide* dealing in such articles and having an established and fixed place of business.

Search.

6. Every peace officer may search any person whom he has reason to believe and does believe has upon his person any weapon, firearm, airgun, device or contrivance contrary to the provisions of this section, and may seize any weapon, firearm, airgun, device or contrivance illegally in the possession of any person without a permit.

Disposal of  
weapon.

7. Any such weapon, firearm, airgun, device or contrivance had or carried in violation of this section shall be forfeited to the Crown to be disposed of as the Attorney General of the province in which such forfeiture takes place may direct. 1913, c. 13, s. 4; 1919, c. 46, s. 2; 1920, c. 43, s. 2; 1921, c. 25, s. 2.

Selling  
pistol or  
airgun  
to minor.

**119.** Every one is guilty of an offence and liable on summary conviction to a penalty not exceeding fifty dollars who sells any firearm or gives or sells any pistol or airgun, or any ammunition therefor, to a minor under the age of sixteen years unless he establishes to the satisfaction of the justice before whom he is charged that he used reasonable diligence in endeavouring to ascertain the age of the minor before making such sale or gift and that he had good reason to believe that such minor was not under the age of sixteen years. 1913, c. 13, s. 5.

**120.** Every one who when arrested, either on a warrant issued against him for an offence or while committing an offence, has upon his person a pistol or airgun is guilty of an offence and liable, on summary conviction before two justices, to a penalty not exceeding fifty dollars and not less than twenty dollars, or to imprisonment for any term not exceeding three months, with or without hard labour. R.S., c. 146, s. 120.

Having pistol or airgun on person when arrested.

**121.** Every one who has upon his person a pistol or airgun, with intent therewith unlawfully to do injury to any other person, is guilty of an offence and liable, on summary conviction before two justices, to a penalty not exceeding two hundred dollars and not less than fifty dollars, or to imprisonment for any term not exceeding six months, with or without hard labour. R.S., c. 146, s. 121.

Having pistol or airgun with intent to injure any person.

**122.** Every one who, without lawful excuse, points at another person any firearm or airgun, whether loaded or unloaded, is guilty of an offence and liable, on summary conviction before two justices, to a penalty not exceeding one hundred dollars and not less than ten dollars, or to imprisonment for any term not exceeding thirty days, with or without hard labour. R.S., c. 146, s. 122.

Pointing any firearm or airgun at any person.

**123.** Every one who carries about his person any bowie-knife, dagger, dirk, metal knuckles, skull cracker, slung shot, or other offensive weapon of a like character, or secretly carries about his person any instrument loaded at the end, or sells or exposes for sale, publicly or privately, any such weapon; or being masked or disguised, carries or has in his possession any firearm or airgun, is guilty of an offence and liable, on summary conviction before two justices, to a penalty not exceeding fifty dollars and not less than ten dollars, or to imprisonment for any term not exceeding three months, with or without hard labour, or to both, and in default of payment of such penalty, to a term or a further term of imprisonment not exceeding three months with or without hard labour. 1909, c. 9, s. 2.

Carrying offensive weapons.

Sale.

Penalty.

**124.** Every one, not being thereto required by his lawful trade or calling, who is found in any town or city carrying about his person any sheath-knife is liable, on summary conviction before two justices, to a penalty not exceeding fifty dollars, and not less than ten dollars, or to imprisonment for any term not exceeding three months, with or without hard labour, or to both and in default of payment of such penalty, to a term or a further term of imprisonment not exceeding three months, with or without hard labour. 1909, c. 9, s. 2.

Carrying sheath-knife in town or city.

Exceptions  
as to  
soldiers,  
etc.

**125.** It is not an offence for any soldier, public officer, peace officer, sailor or volunteer in His Majesty's service or constable or other policeman, to carry loaded pistols or other usual arms or offensive weapons in the discharge of his duty. R.S., c. 146, s. 125.

Refusing  
to deliver  
offensive  
weapon.

**126.** Every one attending any public meeting or being on his way to attend the same who, upon demand made by any justice within whose jurisdiction such public meeting is appointed to be held, declines or refuses to deliver up, peaceably and quietly, to such justice, any offensive weapon with which he is armed or which he has in his possession, is guilty of an indictable offence.

Procedure  
and  
penalty.

2. The justice may record the refusal and adjudge the offender to pay a penalty not exceeding eight dollars, or the offender may be proceeded against by indictment, as in other cases of indictable offences. R.S., c. 146, s. 126.

Coming  
armed  
within one  
mile of  
public  
meeting.

**127.** Every one, except the sheriff, deputy sheriff and justice for the district or county, or the mayor, justices or other peace officer for the city or town, respectively, in which any public meeting is held, and the constable and special constable employed by them, or any of them, for the preservation of the public peace at such meeting, is guilty of an indictable offence, and liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both, who, during any part of the day upon which such meeting is appointed to be held, comes within one mile of the place appointed for such meeting armed with any offensive weapon. R.S., c. 146, s. 127.

Lying in  
wait for  
persons  
returning  
there-  
from.

**128.** Every one is guilty of an indictable offence and liable to a penalty not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months, or to both, who lies in wait for any person returning, or expected to return from any such public meeting, with intent to commit an assault upon such person, or with intent, by abusive language, opprobrious epithets or other offensive demeanour, directed to, at or against such person, to provoke such person, or those who accompany him, to a breach of the peace. R.S., c. 146, s. 128.

Carrying  
or dis-  
charging  
firearms  
without  
authority  
of militia  
an offence.

**129.** Everyone is guilty of an offence and liable upon summary conviction to a fine not exceeding one hundred dollars or to imprisonment for any term not exceeding sixty days, or to both fine and imprisonment, who without authority from the Minister of National Defence carries or discharges any firearm upon any property or premises under the control or management of the said Minister. 1919, c. 46, s. 3.

*Seditious Offences.*

**130.** Every one is guilty of an indictable offence and Penalty.  
liable to fourteen years' imprisonment who

- (a) administers, or is present at and consenting to the Adminis-  
administration of, any oath or any engagement pur-  
porting to bind the person taking the same to commit  
any crime punishable by death or imprisonment for  
more than five years; or
- (b) attempts to induce or compel any person to take Inducing  
any such oath or engagement; or
- (c) takes any such oath or engagement. R.S., c. 146, Taking  
s. 129. oath.

**131.** Every one is guilty of an indictable offence and Penalty.  
liable to seven years' imprisonment who

- (a) administers or is present at and consenting to the Adminis-  
administration of any oath or engagement purporting  
to bind the person taking the same binding to.
- (i) to engage in any mutinous or seditious purpose, Sedition.
- (ii) to disturb the public peace or commit or en- Disturb-  
deavour to commit any offence, ance of  
peace.
- (iii) not to inform and give evidence against any as- Not to  
sociate, confederate or other person, inform.
- (iv) not to reveal or discover any unlawful combina- Not to  
tion or confederacy, or any illegal act done or to reveal  
be done, or any illegal oath or obligation or en- illegal com-  
gagement which may have been administered or bination,  
tendered to or taken by any person, or the import etc.
- (b) attempts to induce or compel any person to take Attempts.
- (c) takes any such oath or engagement. R.S., c. 146, Taking  
s. 130. oath.

**132.** Any one who, under such compulsion as would Compulsion  
otherwise excuse him, offends against either of the last thereto no  
two preceding sections, shall not be excused thereby unless, excuse un-  
within the period hereinafter mentioned, he declares the less declar-  
same and what he knows touching the same, and the per- ation made.

2. Such declaration may be made by such person within Limitation  
fourteen days after the taking of the oath, unless he is of time  
hindered from making it by actual force or sickness, in for declar-  
which case it may be made within eight days of the cessa- ation.

At trial. 3. The declaration may be made on such person's trial if it happens before the expiration of either of the periods aforesaid. R.S., c. 146, s. 131.

Seditious words. **133.** Seditious words are words expressive of a seditious intention.

Seditious libel. 2. A seditious libel is a libel expressive of a seditious intention.

Seditious conspiracy. 3. A seditious conspiracy is an agreement between two or more persons to carry into execution a seditious intention. R.S., c. 146, s. 132.

Seditious words, punishment. **134.** Every one is guilty of an indictable offence and liable to imprisonment for a term of not more than twenty years, who speaks any seditious words or publishes any seditious libel or is a party to any seditious conspiracy. R.S., c. 146, s. 134; 1919, c. 46, s. 5.

Libel on foreign sovereign. **135.** Every one is guilty of an indictable offence and liable to one year's imprisonment who, without lawful justification, publishes any libel tending to degrade, revile or expose to hatred and contempt in the estimation of the people of any foreign state, any prince or person exercising sovereign authority over such state. R.S., c. 146, s. 135.

Spreading false news. **136.** Every one is guilty of an indictable offence and liable to one year's imprisonment who wilfully and knowingly publishes any false news or tale whereby injury or mischief is or is likely to be occasioned to any public interest. R.S., c. 146, s. 136.

### *Piracy.*

Piracy by the law of nations. **137.** Every one is guilty of an indictable offence who does any act which amounts to piracy by the law of nations, and is liable

Punishment in case of violence to person. (a) to the penalty of death, if in committing or attempting to commit such crime the offender murders, attempts to murder or wounds any person, or does any act by which the life of any person is likely to be endangered;

Other cases. (b) to imprisonment for life in all other cases. R.S., c. 146, s. 137.

Piratical acts. **138.** Every one is guilty of an indictable offence and liable to imprisonment for life who, within Canada, does any of the piratical acts specified in this section, or who, having done any of such piratical acts, comes or is brought within Canada without having been tried therefor, that is to say:—

Penalty.

- (a) Being a British subject, on the sea, or in any place within the jurisdiction of the Admiralty of England, under colour of any commission from any foreign prince or state, whether such prince or state is at war with His Majesty or not, or under pretense of authority from any person whomsoever commits any act of hostility or robbery against other British subjects, or during any war is in any way adherent to or gives aid to His Majesty's enemies; British subject—hostility or robbery or adhering to King's enemies.
- (b) Whether a British subject or not, on the sea or in any place within the jurisdiction of the Admiralty of England, enters into any British ship, and throws overboard, or destroys any part of the goods belonging to such ship, or laden on board the same; Entering British ship and destroying goods.
- (c) Being on board any British ship on the sea or in any place within the jurisdiction of the Admiralty of England, Certain acts done upon British ship.
- (i) turns enemy or rebel, and piratically runs away with the ship, or any boat, ordnance, ammunition or goods,
  - (ii) yields up voluntarily any ship, boat, ordnance, ammunition or goods to any pirate,
  - (iii) brings any seducing message from any pirate, enemy or rebel,
  - (iv) counsels or procures any persons to yield up or run away with any ship, goods or merchandise, or to turn pirate or to go over to pirates,
  - (v) lays violent hands on the commander of any such ship, in order to prevent him from fighting in defence of his ship and goods,
  - (vi) confines the master or commander of any such ship,
  - (vii) makes or endeavours to make a revolt in the ship; or
- (d) Being a British subject in any part of the world, or whether a British subject or not, being in any part of His Majesty's dominions or on board a British ship, knowingly British subject does certain acts.
- (i) furnishes any pirate with any ammunition or stores of any kind, Pirate supplies.
  - (ii) fits out any ship or vessel with a design to trade with or supply or correspond with any pirate, Fitting out ship.
  - (iii) conspires or corresponds with any pirate. R.S., Assisting pirate.

Piratical  
act with  
violence.

**139.** Every one is guilty of an indictable offence and liable to suffer death who, in committing or attempting to commit any piratical act, assaults with intent to murder, or wounds, any person, or does any act likely to endanger the life of any person. R.S., c. 146, s. 139.

Not  
resisting  
pirate.

**140.** Every one is guilty of an indictable offence and liable to six months' imprisonment, and to forfeit to the owner of the ship all wages then due to him, who, being a master, officer or seaman of any merchant ship which carries guns and arms, does not, when attacked by any pirate, fight and endeavour to defend himself and his vessel from being taken by such pirate, or who discourages others from defending the ship, if by reason thereof the ship falls into the hands of such pirate. R.S., c. 146, s. 140.

*Conveying Liquor on board His Majesty's Ships.*

Penalty.

Offence.

Taking  
liquor on  
board ship.  
Attempting  
to take.

Delivering.

**141.** Every one is guilty of an offence and liable, on summary conviction before two justices, to a fine not exceeding fifty dollars for each offence, and in default of payment to imprisonment for a term not exceeding one month, with or without hard labour, who, without the previous consent of the officer commanding the ship or vessel,

- (a) conveys any intoxicating liquor on board any of His Majesty's ships or vessels;
- (b) approaches or hovers about any of His Majesty's ships or vessels for the purpose of conveying any such liquor on board thereof; or
- (c) gives or sells to any man in His Majesty's service, on board any such ship or vessel, any intoxicating liquor. R.S., c. 146, s. 141.

PART III.

RESPECTING THE PRESERVATION OF PEACE IN THE VICINITY  
OF PUBLIC WORKS.

*Interpretation.*

Definitions.  
"Commissioner."

"Public  
work."

"This  
Part."

- 142.** In this Part, unless the context otherwise requires,
- (a) "commissioner" means a commissioner under this Part;
  - (b) "public work" includes any railway, canal, road, bridge or other work of any kind, and any mining operation constructed or carried on by the Government of Canada, or of any province of Canada, or by any municipal corporation or by any incorporated company, or by private enterprise.
  - (c) "this Part" means such section or sections hereof as are in force, by virtue of any proclamation, in the place with reference to which the Part is to be construed and applied. R.S., c. 146, s. 142.

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*Proclamation.*

R.S., 1927.



*Proclamation.*

**143.** The Governor in Council may, as often as occasion requires, declare, by proclamation, that upon and after a day therein named, this Part, or any section or sections hereof, shall be in force in any place in Canada in such proclamation designated, within the limits or in the vicinity whereof any public work is in course of construction, or in any place in the vicinity of any public work, within which he deems it necessary that this Part, or any section or sections hereof, should be in force; and this Part, or any such section or sections hereof, shall, upon and after the day named in such proclamation, take effect within the place or places designated therein.

Part may  
be declared  
in force.

**2.** The Governor in Council may, in like manner, from time to time, declare this Part, or any section or sections hereof, to be no longer in force in any such place, and may again, from time to time, declare this Part, or any section or sections hereof, to be in force therein.

Declared  
no longer  
in force.

And again  
in force.

**3.** No such proclamation shall have effect within the limits of any city.

No effect  
in city.

**4.** All courts, magistrates and justices shall take judicial notice of every such proclamation. R.S., c. 146, s. 143.

Judicial  
notice.

*Weapons.*

**144.** On or before the day named in such proclamation, every person employed on or about the public work to which the same relates, shall bring and deliver up, to some commissioner or officer appointed for the purposes of this Part, every weapon in his possession, and shall obtain from such commissioner or officer a receipt for the same. R.S., c. 146, s. 144.

Delivery  
of arms  
to com-  
missioner.

**145.** Every weapon found in the possession of any person employed, as aforesaid, after the day named in any proclamation and within the limits designated in such proclamation, may be seized by any justice, commissioner, constable or other peace officer, and shall be forfeited to the use of His Majesty. R.S., c. 146, s. 145.

Seizure of  
arms not  
delivered.

**146.** Every one employed upon or about any public work, within any place in which this Part is in force, who, upon or after the day named in such proclamation, keeps or has in his possession or under his care or control within any such place, any weapon, is liable on summary conviction to a penalty not exceeding four dollars and not less than two dollars for every such weapon found in his possession or under his care or control. R.S., c. 146, s. 146.

Possessing  
weapons  
near public  
works.

Receiving  
or conceal-  
ing arms  
with  
intent.

**147.** Every one who, for the purpose of defeating the enforcement of this Part, receives or conceals, or aids in receiving or concealing, or procures to be received or concealed, within any place in which this Part is in force, any weapon belonging to or in the custody of any person employed on or about any public work, is liable, on summary conviction, to a penalty not exceeding one hundred dollars and not less than forty dollars; and a moiety of such penalty shall belong to the informer and the other moiety to His Majesty, for the public uses of Canada. R.S., c. 146, s. 147.

Employees  
carrying  
weapons.

**148.** Every person employed on any public work found carrying any weapon, within any place in which this Part is at the time in force, for purposes dangerous to the public peace, is guilty of an indictable offence. R.S., c. 146, s. 148.

Return of  
weapons  
when Part  
ceases to  
be in  
force.

**149.** Whenever this Part ceases to be in force within the place where any weapon has been delivered and detained in pursuance thereof, or whenever the owner or person lawfully entitled to any such weapon satisfies the commissioner that he is about to remove immediately from the limits within which this Part is at the time in force, the commissioner may deliver up to the owner or person authorized to receive the same, any such weapon, on production of the receipt given for it. R.S., c. 146, s. 149.

### *Intoxicating liquor.*

Sale of  
liquor pro-  
hibited.

**150.** Upon and after the day named in such proclamation, and during such period as the proclamation remains in force, no person shall, at any place within the limits specified in the proclamation, sell, barter, or directly or indirectly, for any matter, thing, profit or reward, exchange, supply or dispose of, nor give to any other person, any intoxicating liquor, nor expose, keep or have in his possession any intoxicating liquor intended to be dealt with in any such way.

Exceptions.

2. The provisions of this section shall not extend to any person selling intoxicating liquor by wholesale, and not retailing it, if the said person is a licensed distiller or brewer, nor shall they apply where liquor is supplied for *bona fide* medicinal purposes upon the prescription of a duly qualified medical practitioner. 1907, c. 9, s. 2.

Penalty  
for contra-  
vention.

**151.** Every one who, by himself, his clerk, servant, agent or other person, violates any of the provisions of the last preceding section is guilty of an offence against this Part and liable on summary conviction to a penalty

of two hundred dollars and costs and, in default of payment, to imprisonment for a term not exceeding three months; and, upon any subsequent conviction, to a penalty of three hundred dollars and costs, or to imprisonment for a term not exceeding six months, or to both, and, in default of payment of such penalty, to imprisonment or to further imprisonment for a term not exceeding three months; and imprisonment in each case shall be either with or without hard labour. 1913, c. 13, s. 6.

**152.** Every clerk, servant, agent or other person who, being in the employment of, or on the premises of another person, violates or assists in violating any of the said provisions for the person in whose employment or on whose premises he is, shall be equally guilty with such person, and shall be liable to the punishment mentioned in the last preceding section. R.S., c. 146, s. 152.

Agent  
liable to  
same pen-  
alties as  
principal.

**153.** Any payment or compensation, whether in money or securities for money, labour or property of any kind, for intoxicating liquor sold, bartered, exchanged, supplied or disposed of, contrary to the provisions aforesaid, shall be held to have been criminally received without consideration, and against law, equity and good conscience, and the amount or value thereof may be recovered from the receiver by the person making, paying or furnishing such payment or compensation.

Considera-  
tion given  
for pur-  
chase may  
be recov-  
ered.

2. All sales, transfers, conveyances, liens and securities of every kind, which either in whole or in part have been made or given for or on account of intoxicating liquor sold, bartered, exchanged, supplied or disposed of contrary to such provisions, shall be void against all persons, and no right shall be acquired thereby.

Transfer  
for liquor  
void.

3. No action of any kind shall be maintained, either in whole or in part, for or on account of intoxicating liquor sold, bartered, exchanged, supplied or disposed of, contrary to the said provisions. R.S., c. 146, ss. 153 and 154.

No action  
on account  
of sale of  
liquor.

**154.** Every officer appointed under this Part, and every constable appointed under any law of Canada, may seize upon view anywhere within the limits specified in any proclamation under the said Part any intoxicating liquor in respect of which he has reason to believe that a violation of the provisions of the said Part is intended, and he shall forthwith convey any liquor so seized, together with the owner or person in possession thereof, before a commissioner or justice, who shall thereupon proceed as is provided in section six hundred and fourteen. 1907, c. 9, s. 6.

Seizure of  
liquor.

## PART IV.

## OFFENCES AGAINST THE ADMINISTRATION OF LAW AND JUSTICE.

*Interpretation.*

- Definitions.** **155.** In this Part, unless the context otherwise requires,
- “The government.” (a) “the government” includes the government of Canada, and the government of any province of Canada, as well as His Majesty in the right of Canada or of any province thereof, and the Commissioners of the Transcontinental Railway;
- “Office.” (b) “office” includes every office in the gift of the Crown or of any officer appointed by the Crown, and all commissions, civil, naval and military, and all places or employments in any public department or office whatever, and all deputations to any such office and every participation in the profits of any office or deputation;
- “Official or employee of the government.” (c) “official or person in the employment of the government” and “official or employee of the government,” extend to and include the Commissioners of the Transcontinental Railway and the persons holding office as such commissioners, and the engineers, officials, officers, employees and servants of the said commissioners. R.S., c. 146, s. 155.

*Corruption and Disobedience.*

- Penalty.** **156.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who,
- Judicial, etc., officer accepting or obtaining office for consideration. (a) holding any judicial office, or being a member of Parliament or of a legislature, corruptly accepts or obtains, or agrees to accept, or attempts to obtain for himself or any other person, any money or valuable consideration, office, place, or employment on account of anything already done or omitted, or to be afterwards done or omitted, by him in his judicial capacity, or in his capacity as such member; or
- Giving or offering bribe. (b) corruptly gives or offers to any such person or to any other person, any such bribe as aforesaid on account of any such act or omission. R.S., c. 146, s. 156.
- Penalty.** **157.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who,
- Officer taking bribe. (a) being a police commissioner or being a justice, peace officer, or public officer, employed in any capacity for the prosecution or detection or punishment of offenders, or being an officer of a Juvenile Court, corruptly accepts or obtains, or agrees to accept or attempts to obtain

obtain for himself, or for any other person, any money or valuable consideration, office, place or employment, with the intent to interfere corruptly with the due administration of justice, or to procure or facilitate the commission of any crime, or to protect from detection or punishment any person having committed or intending to commit any crime;

- (b) corruptly gives or offers to any officer aforesaid any such bribe as aforesaid with any such intent. R.S., c. 146, s. 157; 1919, c. 46, s. 6; 1922, c. 16, s. 1.

**158.** Every one is guilty of an indictable offence and liable to a fine of not less than one hundred dollars, and not exceeding one thousand dollars, and to imprisonment for a term not exceeding one year and not less than one month, and in default of payment of such fine to imprisonment for a further time not exceeding six months who,

- (a) makes any offer, proposal, gift, loan or promise, or gives or offers any compensation or consideration, directly or indirectly, to any official or person in the employment of the government, or to any member of his family, or to any person under his control or for his benefit, with intent to obtain the assistance or influence of such official or person to promote either the procuring of any contract with the government for the performance of any work, the doing of any thing, or the furnishing of any goods, effects, food or materials, the execution of any such contract, or the payment of the price or consideration stipulated therein, or any part thereof, or of any aid or subsidy payable in respect thereof; or
- (b) being an official or person in the employment of the government, directly or indirectly, accepts or agrees to accept, or allows to be accepted by any person under his control or for his benefit, any such offer, proposal, gift, loan, promise, compensation or consideration; or
- (c) in the case of tenders being called for by or on behalf of the government for the performance of any work, the doing of any thing, or the furnishing of any goods, effects, food or materials, directly or indirectly, by himself, or by the agency of any other person on his behalf, with intent to obtain the contract therefor, either for himself or for any other person, offers to make, or makes, any gift, loan, offer or promise, or offers or gives any consideration or compensation whatsoever to any person tendering for such work or other service, or to any member of his family or other person for his benefit, to induce such person to withdraw his

Frauds upon the government.

Penalty.

Making offer or gift to unduly influence officer.

Accepting such offer or gift.

Procuring withdrawal of tenders.

tender for such work or other service, or to compensate or reward him for having withdrawn such tender; or

Accepting gift, etc., as consideration for withdrawing tender.

(d) in case of tendering for the performance of any work, the doing of any thing, or the furnishing of any goods, effects, food or materials, for the government when tenders are called for by or on behalf of the government, accepts or receives, directly or indirectly, or permits, or allows to be accepted or received by any member of his family, or by any other person under his control, or for his benefit, any such gift, loan, offer, promise, consideration or compensation, as a consideration or reward for withdrawing or for having withdrawn such tender; or

Officer accepting or person making any gift concerning government business.

(e) being an official or employee of the government, receives, directly or indirectly, whether personally or by or through any member of his family or person under his control or for his benefit, any gift, loan, promise, compensation or consideration whatsoever, either in money or otherwise, from any person whomsoever, for assisting or favouring any individual in the transaction of any business whatsoever with the government, or who gives or offers any such gift, loan, promise, compensation or consideration; or

Compensation for procuring settlement of claim.

(f) by reason of, or under the pretense of, possessing influence with the government, or with any minister or official thereof, demands, exacts or receives from any person, any compensation, fee or reward, for procuring from the government the payment of any claim, or of any portion thereof, or for procuring or furthering the appointment of himself or of any other person, to any office, place or employment, or for procuring or furthering the obtaining for himself or any person, of any grant, lease or other benefit from the government; or offers, promises or pays to such person, under the circumstances and for the causes aforesaid, or any of them, any such compensation, fee or reward; or

Giving reward or commission to officer.

(g) having dealings of any kind with the government through any department thereof, pays to any employee or official of the government, or to any member of the family of such employee or official, or to any person under his control or for his benefit, any commission or reward; or within one year before or after such dealings, without the express permission in writing of the head of the department with which such dealings have been had, the proof of which permission shall lie upon him, makes any gift, loan, or promise of any money, matter or thing, to any such employee or other person aforesaid; or

(h) being an employee or official of the government, Acceptance.  
 demands, exacts or receives from such person, directly  
 or indirectly, by himself, or by or through any other  
 person for his benefit, or permits or allows any mem-  
 ber of his family, or any person under his control, to  
 accept or receive

(i) any such commission or reward, or Commission.

(ii) within the said period of one year, without the Gift within  
a year.  
 express permission in writing of the head of the  
 department with which such dealings have been  
 had, the proof of which permission shall lie upon  
 him, accepts or receives any such gift, loan or  
 promise; or

(i) having any contract with the government for the Contractor  
subscrib-  
ing, etc., to  
election  
fund of  
candidate.  
 performance of any work, the doing of any thing, or  
 the furnishing of any goods, effects, food or materials,  
 and having or expecting to have any claim or demand  
 against the government by reason of such contract,  
 directly or indirectly, by himself or by any person on  
 his behalf, subscribes, furnishes or gives, or promises  
 to subscribe, furnish or give, any money or other  
 valuable consideration for the purpose of promoting  
 the election of any candidate, or of any number, class  
 or party of candidates, to a legislature or to Parlia-  
 ment, or with the intent in any way of influencing or  
 affecting the result of a provincial or Dominion  
 election.

2. If the value of the amount or thing paid, offered Penalty if  
value ex-  
ceeds  
\$1,000.  
 given, loaned, promised, received or subscribed, as the case  
 may be, exceeds one thousand dollars, the offender under  
 this section is liable to any fine not exceeding such value.  
 R.S., c. 146, s. 158.

**159.** Every person convicted of an offence under the Other con-  
sequences.  
 last preceding section shall be incapable of contracting  
 with the government, or of holding any contract or office  
 with, from, or under it, or of receiving any benefit under  
 any such contract. R.S., c. 146, s. 159.

**160.** Every public officer is guilty of an indictable Breach of  
trust by  
public  
officer.  
 offence and liable to five years' imprisonment who, in the  
 discharge of the duties of his office, commits any fraud or  
 breach of trust affecting the public, whether such fraud  
 or breach of trust would have been criminal or not if com-  
 mitted against a private person. R.S., c. 146, s. 160.

**161.** Every one is guilty of an indictable offence and Municipal  
corruption.  
 liable to a fine not exceeding one thousand dollars and not  
 less than one hundred dollars, and to imprisonment for a Penalty.  
 term not exceeding two years and not less than one month,

and in default of payment of such fine to imprisonment for a further term not exceeding six months, who directly or indirectly

Corruptly offering gift to municipal councillor to vote or abstain from voting.

(a) makes any offer, proposal, gift, loan, promise or agreement to pay or give any money or other material compensation or consideration to any member of a municipal council, whether the same is to enure to his own advantage or to the advantage of any other person, for the purpose of inducing such member either to vote or to abstain from voting at any meeting of the council of which he is a member or at any meeting of a committee of such council, in favour of or against any measure, motion, resolution or question submitted to such council or committee; or

Corruptly offering gift to secure aid of municipal officers.

(b) makes any offer, proposal, gift, loan, promise or agreement to pay or give any money or other material compensation or consideration to any member or to any officer of a municipal council for the purpose of inducing him to aid in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person; or

Other corrupt proposals to officers.

(c) makes any offer, proposal, gift, loan, promise or agreement to pay or give any money or other material compensation or consideration to any officer of a municipal council for the purpose of inducing him to perform or abstain from performing, or to aid in procuring or preventing the performance of, any official act; or

Members of council corruptly accepting gift.

(d) being a member or officer of a municipal council, accepts or consents to accept any such offer, proposal, gift, loan, promise, agreement, compensation or consideration in this section mentioned; or in consideration thereof votes or abstains from voting in favour of or against any measure, motion, resolution or question, or performs or abstains from performing any official act; or

Use of threats or fraud to influence vote.

(e) attempts by any threat, deceit, suppression of the truth or other unlawful means to influence any member of a municipal council in giving or withholding his vote in favour of or against any measure, motion, resolution or question, or in not attending any meeting of the municipal council of which he is a member, or of any committee thereof; or

Threats or fraud to secure or prevent vote or official act.

(f) attempts by any such means as in the last preceding paragraph mentioned to influence any member or any officer of a municipal council to aid in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person, or to perform or abstain from performing, or to aid in procuring or preventing the performance of, any official act. R.S., c. 146, s. 161.



**162.** Every one is guilty of an indictable offence who, **Offence.**  
directly or indirectly,

- (a) sells or agrees to sell any appointment to or resignation of any office, or any consent to any such appointment or resignation, or receives, or agrees to receive, any reward or profit from the sale thereof; or **Selling office.**
- (b) purchases or gives any reward or profit for the purchase of any such appointment, resignation or consent, or agrees or promises to do so; **Purchasing office.**

and in addition to any other penalty incurred, forfeits any right which he may have in the office and is disabled for life from holding the same. R.S., c. 146, s. 162. **Forfeiture.**

**163.** Every one is guilty of an indictable offence who, **Offence.**  
directly or indirectly,

- (a) receives or agrees to receive any reward or profit for any interest, request or negotiation about any office, or under pretense of using any such interest, making any such request or being concerned in any such negotiation; or **Receiving reward for corrupt municipal act.**
- (b) gives or procures to be given any profit or reward, or makes or procures to be made any agreement for the giving of any profit or reward, for any such interest, request or negotiation as aforesaid; or **Giving or procuring any reward.**
- (c) solicits, recommends or negotiates in any manner as to any appointment to or resignation of any office in expectation of any reward or profit; or **Being a party to negotiations.**
- (d) keeps any office or place for transacting or negotiating any business relating to vacancies in, or the sale or purchase of, or appointment to or resignation of offices. R.S., c. 146, s. 163. **Keeping office for the purpose.**

**164.** Every one is guilty of an indictable offence and liable to one year's imprisonment who, without lawful excuse, disobeys any Act of the Parliament of Canada or of any legislature in Canada by wilfully doing any act which it forbids, or omitting to do any act which it requires to be done, unless some penalty or other mode of punishment is expressly provided by law. R.S., c. 146, s. 164. **Disobeying a statute.**

**165.** Every one is guilty of an indictable offence and liable to one year's imprisonment who, without lawful excuse, disobeys any lawful order, other than for the payment of money, made by any court of justice, or by any person or body of persons authorized by any statute to make or give such order, unless some penalty is imposed, or other mode of proceeding is expressly provided, by law. R.S., c. 146, s. 165. **Disobeying orders of court.**

Misconduct  
of officers  
entrusted  
with execu-  
tion of  
writs.

**166.** Every one is guilty of an indictable offence and liable to a fine and imprisonment who, being a sheriff, deputy-sheriff, coroner, elisor, bailiff, constable or other officer entrusted with the execution of any writ, warrant or process, wilfully misconducts himself in the execution of the same, or wilfully, and without the consent of the person in whose favour the writ, warrant or process was issued, makes any false return thereto. R.S., c. 146, s. 166.

*Peace Officers.*

Obstruct-  
ing public  
officer.

**167.** Every one is guilty of an indictable offence and liable to ten years' imprisonment who resists or wilfully obstructs any public officer in the execution of his duty or any person acting in aid of such officer.

Neglect to  
aid peace  
officers in  
arresting  
offenders.

2. Every one is guilty of an indictable offence and liable to six months' imprisonment who, having reasonable notice that he is required to assist any sheriff, deputy-sheriff, mayor or other head officer, justice, magistrate, or peace officer, in the execution of his duty in arresting any person, or in preserving the peace, without reasonable excuse omits to do so. R.S., c. 146, ss. 167 and 168.

Obstruct-  
ing peace  
officer.

**168.** Every one who resists or wilfully obstructs

(a) any peace officer in the execution of his duty or any person acting in aid of such officer;

Person  
executing  
process.

(b) any person in the lawful execution of any process against any lands or goods or in making any lawful distress or seizure;

is guilty of an offence punishable on indictment or on summary conviction and liable if convicted on indictment to two years' imprisonment, and, on summary conviction before two justices, to six months' imprisonment with hard labour, or to a fine of one hundred dollars. R.S., c. 146, s. 169.

Falsely  
pretending  
to be con-  
stable.

**169.** Every one who falsely represents himself to be a constable or other peace officer, or who, not being a constable or other peace officer, makes use of any badge or article of uniform or equipment in such manner as is likely to make persons believe that he is a constable or other peace officer, is liable upon summary conviction to a fine not exceeding one hundred dollars and costs, or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment. 1913, c. 13, s. 7.

*Misleading Justice.*

Definition  
of  
perjury.

**170.** Perjury is an assertion as to a matter of fact, opinion, belief or knowledge, made by a witness in a judicial proceeding as part of his evidence, upon oath or affir-

mation, whether such evidence is given in open court, or by affidavit or otherwise, and whether such evidence is material or not, such assertion being known to such witness to be false, and being intended by him to mislead the court, jury or person holding the proceeding.

2. Subornation of perjury is counselling or procuring a person to commit any perjury which is actually committed. Subornation.

3. Evidence in this section includes evidence given on the *voir dire* and evidence given before a grand jury. R.S., c. 146, s. 170. Evidence.

**171.** Every person is a witness within the meaning of the last preceding section who actually gives his evidence, whether he was competent to be a witness or not, and whether his evidence was admissible or not. Witness defined.

2. Every proceeding is judicial within the meaning of the last preceding section which is held in or under the authority of any court of justice, or before a grand jury, or before either the Senate or House of Commons of Canada, or any committee of either the Senate or House of Commons, or before any legislative council, legislative assembly or house of assembly or any committee thereof, empowered by law to administer an oath, or before any justice, or any arbitrator or umpire, or any person or body of persons authorized by law or by any statute in force for the time being to make an inquiry and take evidence therein upon oath, or before any legal tribunal by which any legal right or liability can be established, or before any person acting as a court, justice or tribunal, having power to hold such judicial proceeding, whether duly constituted or not, and whether the proceeding was duly instituted or not before such court or person so as to authorize it or him to hold the proceeding, and although such proceeding was held in a wrong place or was otherwise invalid. R.S., c. 146, s. 171. Judicial proceeding.

**172.** Every one is guilty of perjury who, Perjury.

(a) having taken or made any oath, affirmation, solemn declaration or affidavit where, by any Act or law in force in Canada, or in any province of Canada, it is required or permitted that facts, matters or things be verified, or otherwise assured or ascertained by or upon the oath, affirmation, declaration or affidavit of any person, wilfully and corruptly, upon such oath, affirmation, declaration or affidavit, deposes, swears to or makes any false statement as to any such fact, matter or thing; or False statement under oath within Canada.

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(b)

R.S., 1927.

False oath,  
etc., in  
verification  
of state-  
ment.

Subscribing  
affirmation  
as affidavit.

Making  
false affi-  
davit out  
of the  
province  
but within  
Canada.

Penalty  
for perjury  
or suborna-  
tion.

Increased  
in certain  
cases.

False oaths  
in extra-  
judicial  
proceed-  
ings.

False  
statements  
in extra-  
judicial  
proceed-  
ings.

Fabricat-  
ing  
evidence.

(b) knowingly, wilfully and corruptly, upon oath, affirmation or solemn declaration, affirms, declares or deposes to the truth of any statement for so verifying, assuring or ascertaining any such fact, matter or thing, or purporting so to do, or knowingly, wilfully and corruptly takes, makes, signs or subscribes any such affirmation, declaration or affidavit as to any such fact, matter or thing, if such statement, affidavit, affirmation or declaration is untrue in whole or in part. R.S., c. 146, s. 172.

**173.** Every person who wilfully and corruptly makes any false affidavit, affirmation or solemn declaration, out of the province in which it is to be used but within Canada, before any person authorized to take the same, for the purpose of being used in any province of Canada, is guilty of perjury in like manner as if such false affidavit, affirmation or declaration were made before a competent authority in the province in which it is used or intended to be used. R.S., c. 146, s. 173.

**174.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who commits perjury or subornation of perjury.

2. If the crime is committed in order to procure the conviction of a person for any crime punishable by death, or imprisonment for seven years or more, the punishment may be imprisonment for life. R.S., c. 146, s. 174.

**175.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, being required or authorized by law to make any statement on oath, affirmation or solemn declaration, thereupon makes a statement which would amount to perjury if made in a judicial proceeding. R.S., c. 146, s. 175.

**176.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, upon any occasion on which he is permitted by law to make any statement or declaration before any officer authorized by law to permit it to be made before him, or before any notary public to be certified by him as such notary, makes a statement which would amount to perjury if made on oath in a judicial proceeding. R.S., c. 146, s. 176.

**177.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, with intent to mislead any court of justice or person holding any such judicial proceeding, fabricates evidence by any means other than perjury or subornation of perjury. R.S., c. 146, s. 177.

**178.** Every one is guilty of an indictable offence who conspires to prosecute any person for any alleged offence, knowing such person to be innocent thereof, and shall be liable, Conspiring to bring false accusations.

(a) to imprisonment for fourteen years if such person might, upon conviction for the alleged offence, be sentenced to death or imprisonment for life;

(b) to imprisonment for ten years if such person might, upon conviction for the alleged offence, be sentenced to imprisonment for any term less than life. Penalty. R.S., c. 146, s. 178.

**179.** Every justice or other person is guilty of an indictable offence and liable to a fine not exceeding fifty dollars, or to imprisonment for any term not exceeding three months, who administers or causes or allows to be administered, or receives, or causes or allows to be received, any oath or affirmation touching any matter or thing whereof such justice or other person has not jurisdiction or cognizance by some law in force at the time being, or not authorized or required by any such law; but nothing in this section contained shall be construed to extend to any oath or affirmation before any justice in any matter or thing touching the preservation of the peace, or the prosecution, trial or punishment of any offence, or to any oath or affirmation required or authorized by any law of Canada or by any law of the province wherein such oath or affirmation is received or administered, or is to be used, or to any oath or affirmation, which is required or authorized by the laws of any foreign country to give validity to an instrument in writing or to evidence designed or intended to be used in such foreign country. Penalty. Administering oaths without authority.

2. Every one shall be guilty of an offence and liable, upon summary conviction, to a penalty not exceeding five hundred dollars, or to imprisonment for any term not exceeding six months, or to both fine and imprisonment who Saving. Penalty.

(a) signs any document purporting to be an affidavit or statutory declaration as having been sworn or declared before him when such document was not so sworn or declared, or when he knows that he had no authority to administer such oath or declaration; or Signing pretended affidavit or declaration.

(b) signs, uses or offers for use any document purporting to be an affidavit or statutory declaration which he knows is not or was not sworn or declared to; or was not sworn or declared to before a proper officer in that behalf. Signing, using or offering for use pretended affidavit or declaration. R.S., c. 146, s. 179; 1920, c. 43, s. 3.

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**180.**

R.S., 1927.

- Penalty.** **180.** Every one is guilty of an indictable offence and liable to two years' imprisonment who
- Corrupting witness.** (a) dissuades or attempts to dissuade any person by threats, bribes, or other corrupt means from giving evidence in any cause or matter, civil or criminal; or
- Corrupting juryman.** (b) influences or attempts to influence, by threats or bribes or other corrupt means, any juryman in his conduct as such, whether such person has been sworn as a juryman or not; or
- Accepting bribes.** (c) accepts any bribe or other corrupt consideration to abstain from giving evidence, or on account of his conduct as a juryman; or
- Otherwise obstructing justice.** (d) wilfully attempts in any other way to obstruct, pervert or defeat the course of justice. R.S., c. 146, s. 180.
- Compound- ing penal actions.** **181.** Every one is guilty of an indictable offence and liable to a fine not exceeding the penalty compounded for who, having brought, or under colour of bringing, an action against any person under any penal statute in order to obtain from him any penalty, compounds the said action without order or consent of the court, whether any offence has in fact been committed or not. R.S., c. 146, s. 181.
- Corruptly taking reward with- out bring- ing offender to trial.** **182.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who corruptly takes any money or reward, directly or indirectly, under pre- tence or upon account of helping any person to recover any chattel, money, valuable security or other property which, by any indictable offence, has been stolen, taken, obtained, extorted, converted or disposed of, unless he has used all due diligence to cause the offender to be brought to trial for the same. R.S., c. 146, s. 182.
- Penalty.** **183.** Every one is liable to a penalty of two hundred and fifty dollars for each offence, recoverable with costs by any person who sues for the same in any court of com- petent jurisdiction, who
- Advertising reward and immunity for offender.** (a) publicly advertises a reward for the return of any property which has been stolen or lost, and in such advertisement uses any words purporting that no questions will be asked; or
- Making use of words in advertise- ment to like effect.** (b) makes use of any words in any public advertisement purporting that a reward will be given or paid for any property which has been stolen or lost without seizing or making any inquiry after the person producing such property; or
- Advertising that money advanced on property stolen will be paid.** (c) promises or offers in any such public advertisement to return to any pawnbroker or other person who advanced money by way of loan on, or has bought, any property stolen or lost, the money so advanced or paid, or any other sum of money for the return of such property; or

- (d) prints or publishes any such advertisement. R.S., c. 146, s. 183. Printing advertisement.

**184.** Every one is guilty of an indictable offence and liable to two years' imprisonment, who knowingly and wilfully signs a false certificate or declaration, when a certificate or declaration is required, with respect to the execution of judgment of death on any prisoner. R.S., c. 146, s. 184. False declaration in respect to execution of judgment of death.

*Escapes and Rescues.*

**185.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, having been sentenced to imprisonment, is afterwards, and before the expiration of the term for which he was sentenced, at large within Canada without some lawful cause, the proof whereof shall lie on him. R.S., c. 146, s. 185. Being at large while under sentence of imprisonment.

**186.** Every one is guilty of an indictable offence and liable to five years' imprisonment who knowingly and wilfully,

- (a) assists any alien enemy of His Majesty, being a prisoner of war in Canada, to escape from any place in which he may be detained; or Assisting prisoner of war to escape.
- (b) assists any such prisoner as aforesaid, suffered to be at large on his parole in Canada or in any part thereof, to escape from the place where he is at large on his parole. R.S., c. 146, s. 186. Assisting while at large on parole.

**187.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, by force or violence, breaks any prison with intent to set at liberty himself or any person confined therein on any criminal charge. R.S., c. 146, s. 187. Prison-breach.

**188.** Every one is guilty of an indictable offence and liable to two years' imprisonment who attempts to break prison, or who forcibly breaks out of his cell or makes any breach therein with intent to escape therefrom. R.S., c. 146, s. 188. Attempt to break prison.

**189.** Every one is guilty of an indictable offence and liable to two years' imprisonment who,

- (a) having been convicted of an offence, escapes from any lawful custody in which he may be under such conviction; or Escapes after conviction.
- (b) whether convicted or not, escapes from any prison in which he is lawfully confined on any criminal charge; or Escaping from prison.

Penalty  
for  
skipping  
bail.

(c) being on bail prior to his conviction or while his case is pending in any court of appeal does not, without lawful excuse, the proof whereof shall be upon him, present himself at the proper time and place to stand his trial or for the hearing of the appeal, or to receive his sentence, as the case may be. R.S., c. 146, s. 189; 1925, c. 38, s. 3.

Escape  
from  
custody.

**190.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, being in lawful custody other than as aforesaid on any criminal charge, escapes from such custody. R.S., c. 146, s. 190.

Penalty.

**191.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who,

Rescue of  
person  
sentenced  
to death  
or for life.

(a) rescues any person or assists any person in escaping, or attempting to escape, from lawful custody, whether in prison or not, under sentence of death or imprisonment for life, or after conviction of, and before sentence for, or while in such custody upon a charge of any crime punishable with death or imprisonment for life; or

Officer  
permitting  
escape.

(b) being a peace officer and having any such person in his lawful custody, or being an officer of any prison in which any such person is lawfully confined, voluntarily and intentionally permits him to escape therefrom. R.S., c. 146, s. 191.

Penalty.

**192.** Every one is guilty of an indictable offence and liable to five years' imprisonment who,

Rescuing  
or assisting  
to escape  
in other  
cases.

(a) rescues any person, or assists any person in escaping, or attempting to escape, from lawful custody, whether in prison or not, under a sentence of imprisonment for any term less than life, or after conviction of, and before sentence for, or while in such custody upon a charge of any crime punishable with imprisonment for a term less than life; or

Officer per-  
mitting  
escape in  
other  
cases.

(b) being a peace officer having any such person in his lawful custody, or being an officer of any prison in which such person is lawfully confined, voluntarily and intentionally permits him to escape therefrom. R.S., c. 146, s. 192.

Escape by  
failure to  
perform  
legal  
duty.

**193.** Every one is guilty of an indictable offence and liable to one year's imprisonment, who, by failing to perform any legal duty, permits a person in his lawful custody on a criminal charge to escape therefrom. R.S., c. 146, s. 193.



**194.** Every one is guilty of an indictable offence and liable to two years' imprisonment who with intent to facilitate the escape of any prisoner lawfully imprisoned conveys, or causes to be conveyed, any thing into any prison. R.S., c. 146, s. 194.

Escape by conveying things into prison.

**195.** Every one is guilty of an indictable offence and liable to two years' imprisonment who knowingly and unlawfully, under colour of any pretended authority, directs or procures the discharge of any prisoner not entitled to be so discharged, and the person so discharged shall be held to have escaped. R.S., c. 146, s. 195.

Causing discharge of prisoner under pretended authority.

**196.** Every one who escapes from custody, shall, on being retaken, serve, in the prison to which he was sentenced, a term equivalent to the remainder of his term unexpired at the time of his escape, in addition to the punishment which is awarded for such escape.

Full term to be served when retaken.

2. Any imprisonment so awarded may be to the penitentiary or prison from which the escape was made. R.S., c. 146, s. 196.

Place of additional imprisonment.

## PART V.

### OFFENCES AGAINST RELIGION, MORALS AND PUBLIC CONVENIENCE.

#### *Interpretation.*

**197.** In this Part, unless the context otherwise requires, Definitions.

- (a) "guardian" includes any person who has in law or in fact the custody or control of any girl or child referred to; "Guardian."
- (b) "public place" includes any open place to which the public have or are permitted to have access and any place of public resort; "Public place."
- (c) "theatre" includes any place open to the public, gratuitously or otherwise, where dramatic, musical, acrobatic or other entertainments or representations are presented or given. R.S., c. 146, s. 197. "Theatre."

#### *Offences Against Religion.*

**198.** Every one is guilty of an indictable offence and liable to one year's imprisonment who publishes any blasphemous libel. Blasphemous libels.

2. Whether any particular published matter is a blasphemous libel or not is a question of fact: Provided that no one is guilty of a blasphemous libel for expressing in good faith and in decent language, or attempting to establish

Question of fact.

Proviso.

Expression  
of opinion.

lish by arguments used in good faith and conveyed in decent language, any opinion whatever upon any religious subject. R.S., c. 146, s. 198.

Obstruct-  
ing  
officiating  
clergyman.

**199.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, by threats or force, unlawfully obstructs or prevents, or endeavours to obstruct or prevent, any clergyman or other minister in or from celebrating divine service, or otherwise officiating in any church, chapel, meeting-house, school-house or other place for divine worship, or in or from the performance of his duty in the lawful burial of the dead in any church-yard or other burial place. R.S., c. 146, s. 199.

Violence  
to  
officiating  
clergyman.

**200.** Every one is guilty of an indictable offence and liable to two years' imprisonment who strikes or offers any violence to, or arrests upon any civil process or under the pretense of executing any civil process, any clergyman or other minister who is engaged in or, to the knowledge of the offender, is about to engage in, any of the rites or duties in the last preceding section mentioned, or who, to the knowledge of the offender, is going to perform the same, or returning from the performance thereof. R.S., c. 146, s. 200.

Disturbing  
meetings  
for  
religious  
worship or  
special  
purposes.

**201.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding fifty dollars and costs, and in default of payment to one month's imprisonment, who wilfully disturbs, interrupts or disquiets any assemblage of persons met for religious worship, or for any moral, social or benevolent purpose, by profane discourse, by rude or indecent behaviour, or by making a noise, either within the place of such meeting or so near it as to disturb the order or solemnity of the meeting. R.S., c. 146, s. 201.

#### *Offences Against Morality.*

Buggery.

**202.** Every one is guilty of an indictable offence and liable to imprisonment for life who commits buggery, either with a human being or with any other living creature. R.S., c. 146, s. 202.

Attempt  
to commit.

**203.** Every one is guilty of an indictable offence and liable to ten years' imprisonment who attempts to commit the offence mentioned in the last preceding section. R.S., c. 146, s. 203.

Incest.

**204.** Every parent and child, every brother and sister, and every grandparent and grandchild, who cohabit or have sexual intercourse with each other, shall each of them, if aware of their consanguinity, be deemed to have

committed incest, and be guilty of an indictable offence and liable to fourteen years' imprisonment, and the male person shall also be liable to be whipped: Provided that, if the court or judge is of opinion that the female accused is a party to such intercourse only by reason of the restraint, fear or duress of the other party, the court or judge shall not be bound to impose any punishment on such person under this section. R.S., c. 146, s. 204.

Effect of  
compulsion.

**205.** Every one is guilty of an offence and liable, on summary conviction before two justices, to a fine of fifty dollars or to six months' imprisonment with or without hard labour, or to both fine and imprisonment, who wilfully

Indecent  
acts.

(a) in the presence of one or more persons does any indecent act in any place to which the public have or are permitted to have access; or

In public  
places.

(b) does any indecent act in any place intending thereby to insult or offend any person. R.S., c. 146, s. 205.

As an  
insult.

**206.** Every male person is guilty of an indictable offence and liable to five years' imprisonment and to be whipped who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any acts of gross indecency with another male person. R.S., c. 146, s. 206.

Acts of  
gross in-  
decency.

**207.** Every one is guilty of an indictable offence and liable to two years' imprisonment who knowingly, without lawful justification or excuse,

Penalty.

(a) makes, manufactures, or sells, or exposes for sale or to public view, or distributes or circulates, or causes to be distributed or circulated, or has in his possession for sale, distribution or circulation, or assists in such making, manufacture, sale, exposure, having in possession, distribution or circulation, any obscene book or other printed, typewritten or otherwise written matter, or any picture, photograph, model or other object tending to corrupt morals, or any plate for the reproduction of any such picture or photograph;

Obscene or  
immoral  
books or  
pictures.

(b) publicly exhibits any disgusting object or any indecent show; or

Indecent  
show.

(c) offers to sell, advertises, publishes an advertisement of, or has for sale or disposal any means or instructions or any medicine, drug or article intended or represented as a means of preventing conception or of causing abortion or miscarriage; or advertises or publishes an advertisement of any means, instructions, medicine, drug or article for restoring sexual virility or curing venereal diseases or diseases of the generative organs.

Drugs.

**Excess.** 2. No one shall be convicted of any offence in this section mentioned if he proves that the public good was served by the acts alleged to have been done, and that there was no excess in the acts alleged beyond what the public good required.

**Questions for judge.** 3. It shall be a question for the court or judge whether the occasion of the manufacture, sale, exposing for sale, publishing, or exhibition is such as might be for the public good, and whether there is evidence of excess beyond what the public good required in the manner, extent or circumstances in, to or under which the manufacture, sale, exposing for sale, publishing or exhibition is made; but it shall be a question for the jury whether there is or is not such excess.

**And for jury.**

**Motives.** 4. The motives of the manufacturer, seller, exposor, publisher or exhibitor shall in all cases be irrelevant. R.S., c. 146, s. 207; 1909, c. 9, s. 2; 1913, c. 13, s. 8.

**Immoral theatrical performance.**

**208.** Every person who, being the lessee, agent or person in charge or manager of a theatre, presents or gives or allows to be presented or given therein any immoral, indecent or obscene play, opera, concert, acrobatic, variety, or vaudeville performance, or other entertainment or representation, is guilty of an offence punishable on indictment or on summary conviction, and liable, if convicted upon indictment, to one year's imprisonment with or without hard labour, or to a fine of five hundred dollars, or to both, and, on summary conviction, to six months' imprisonment, or to a fine of fifty dollars, or to both.

**Penalty for lessee or manager.**

**Person appearing as actor.** 2. Every person who takes part or appears as an actor, performer, or assistant in any capacity, in any such immoral, indecent or obscene play, opera, concert, performance, or other entertainment or representation, is guilty of an offence and liable, on summary conviction, to three months' imprisonment or to a fine not exceeding twenty dollars, or to both.

**Penalty.**

**Person in an indecent costume.** 3. Every person who so takes part or appears in an indecent costume is guilty of an offence and liable, on summary conviction, to six months' imprisonment, or to a fine of fifty dollars, or to both. R.S., c. 146, s. 208.

**Penalty.** **209.** Every one is guilty of an indictable offence and liable to two years' imprisonment who posts for transmission or delivery by or through the post,

**Posting obscene publications.** (a) any obscene or immoral book, pamphlet, newspaper, picture, print, engraving, lithograph, photograph or any publication, matter or thing of an indecent, immoral, or scurrilous character; or

(b) any letter upon the outside or envelope of which, Letters or post-cards.  
or any post-card or post band or wrapper upon which,  
there are words, devices, matters or things of the  
character aforesaid; or

(c) any letter or circular concerning schemes devised or Letters to deceive and defraud.  
intended to deceive and defraud the public, or for  
the purpose of obtaining money under false pretenses,  
R.S., c. 146, s. 209.

**210.** The burden of proof of previous unchastity on Burden of proof.  
the part of the girl or woman under the three next suc-  
ceeding sections shall be upon the accused. R.S., c. 146, s.  
210.

**211.** Every one over the age of eighteen years is guilty Seduction of girls between 16 and 18.  
of an indictable offence and liable to two years' imprison-  
ment who seduces any girl of previously chaste character  
of or above the age of sixteen years and under the age of  
eighteen years.

2. Proof that a girl has on previous occasions had illicit  
connection with the accused shall not be deemed to be  
evidence that she was not of previously chaste character.

3. On the trial of any offence under this section, the trial  
judge may instruct the jury that if in their view the  
evidence does not show that the accused is wholly or chiefly  
to blame for the commission of said offence, they may find  
a verdict of acquittal. 1920, c. 43, ss. 4 and 17.

**212.** Every one, above the age of twenty-one years, is Seduction under promise of marriage.  
guilty of an indictable offence and liable to two years' im-  
prisonment who, under promise of marriage, seduces and  
has illicit connection with any unmarried female of previ-  
ously chaste character and under twenty-one years of age.  
R.S., c. 146, s. 212.

**213.** Every one is guilty of an indictable offence and Penalty.  
liable to two years' imprisonment

(a) who, being a step-parent or foster parent or guard- Foster parents.  
ian, seduces or has illicit connection with his step-  
child or foster child or ward; or

(b) who seduces or has illicit connection with any girl Seducing female employees.  
previously chaste and under the age of twenty-one  
years who is in his employment, or who, being in a  
common, but not necessarily similar, employment  
with him is, in respect of her employment or work,  
under or in any way subject to his control or direc-  
tion, or receives her wages or salary directly or in-  
directly from him; and proof that a girl has on previ-  
ous occasions had illicit connection with the accused  
shall not be deemed to be evidence that she was not  
previously chaste.

2. On the trial of any offence against paragraph (b) of this section, the trial judge may instruct the jury that if in their view the evidence does not show that the accused is wholly or chiefly to blame for the commission of said offence, they may find a verdict of acquittal. R.S., c. 146, s. 213; 1917, c. 14, s. 2; 1920, c. 43, ss. 5 and 17.

Seducing  
female pas-  
sengers on  
vessels.

**214.** Every one is guilty of an indictable offence and liable to a fine of four hundred dollars or to one year's imprisonment, who, being the master or other officer or a seaman or other person employed on board of any vessel, while such vessel is in any water within the jurisdiction of the Parliament of Canada, under promise of marriage, or by threats, or by the exercise of his authority, or by solicitation, or the making of gifts or presents, seduces and has illicit connection with any female passenger.

Marriage  
a defence.

2. The subsequent intermarriage of the seducer and the seduced is, if pleaded, a good defence to any indictment for any offence against this or either of the two last preceding sections, except in the case of a guardian seducing his ward. R.S., c. 146, s. 214.

Parent or  
guardian  
procuring  
or party to  
defilement  
of girl or  
woman.

**215.** Every one who, being the parent or guardian of any girl or woman,

(a) procures such girl or woman to have carnal connection with any man other than the procurer; or

(b) orders, is party to, permits or knowingly receives the avails of, the defilement, seduction or prostitution of such girl or woman;

Penalty.

is guilty of an indictable offence, and liable to fourteen years' imprisonment, if such girl or woman is under the age of fourteen years, and if such girl or woman is of or above the age of fourteen years, to five years' imprisonment.

2. Any person who, in the home of a child, by indulgence in sexual immorality, in habitual drunkenness or in any other form of vice, causes such child to be in danger of being or becoming immoral, dissolute or criminal, or the morals of such child to be injuriously affected, or renders the home of such child an unfit place for such child to be in, shall be liable, on summary conviction, to a fine not exceeding five hundred dollars or to imprisonment for a period not exceeding one year or to both fine and imprisonment.

Corrupting  
children.

3. For the purposes of this section, "child" means a boy or girl apparently or actually under the age of sixteen years.

Definition  
of "child."

4. It shall not be a valid defence to a prosecution under this section that the child is of too tender years to understand or appreciate the nature of the act complained of or to be immediately affected thereby.

5. No prosecution shall be instituted under subsections two, three or four of this section unless it be at the instance of some recognized society for the protection of children or an officer of a juvenile court, without the authorization of the Attorney General of the province in which the offence is alleged to have been committed, nor shall any such prosecution be commenced after the expiration of six months from the time of the commission of the alleged offence. R.S., c. 146, s. 215; 1918, c. 16, s. 1.

**216.** Every one is guilty of an indictable offence and shall be liable to ten years' imprisonment and on any second or subsequent conviction shall also be liable to be whipped in addition to such imprisonment who Procuring.

- (a) procures, or attempts to procure or solicits any girl or woman to have unlawful carnal connection, either within or without Canada, with any other person or persons; or
- (b) inveigles or entices any woman or girl not being a common prostitute or of known immoral character to a common bawdy or assignation house for the purpose of illicit intercourse or prostitution; or
- (c) knowingly conceals any woman or girl in any common bawdy or assignation house; or
- (d) procures or attempts to procure any woman or girl to become, either within or without Canada, a common prostitute; or
- (e) procures or attempts to procure any woman or girl to leave her usual place of abode in Canada, such place not being a common bawdy house, with intent that she may become an inmate or frequenter of a common bawdy house within or without Canada; or
- (f) on the arrival of any woman or girl in Canada, directs or causes her to be directed, takes or causes her to be taken, to any common bawdy house or house of assignation; or
- (g) procures any woman or girl to come to Canada, or to leave Canada, for the purpose of prostitution; or
- (h) by threats or intimidation procures or attempts to procure any woman or girl to have any unlawful carnal connection, either within or without Canada; or
- (i) for the purposes of gain, exercises control, direction or influence over the movements of any woman or girl in such manner as to show that he is aiding, abetting or compelling her prostitution with any person or generally; or
- (j) by false pretenses or false representations procures any woman or girl to have any unlawful carnal connection, either within or without Canada; or

Drugs.

(k) applies, administers to, or causes to be taken by any woman or girl any drug, intoxicating liquor, matter, or thing with intent to stupefy or overpower so as thereby to enable any person to have unlawful carnal connection with such woman or girl; or

Living on  
earnings  
of prostitu-  
tion.

(l) being a male person, lives wholly or in part on the earnings of prostitution.

Evidence.

2. Where a male person is proved to live with or to be habitually in the company of a prostitute or prostitutes, and has no visible means of support, or to live in a house of prostitution, he shall, unless he can satisfy the court to the contrary, be deemed to be living on the earnings of prostitution. 1913, c. 13, s. 9; 1920, c. 43, s. 18.

House-  
holder per-  
mitting de-  
fillement.

**217.** Every one who, being the owner or occupier of any premises, or having, or acting or assisting in, the management or control thereof, induces or knowingly suffers any girl under the age of eighteen years to resort to or be in or upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man, or generally, is guilty of an indictable offence, and is liable,

Penalty.

(a) to ten years' imprisonment if such girl is under the age of fourteen years;

Age.

Penalty.

(b) to two years' imprisonment if such girl is of or above the age of fourteen years. R.S., c. 146, s. 217.

Age.

Conspiracy  
to defile.

**218.** Every one is guilty of an indictable offence and liable to two years' imprisonment who conspires with any other person by false pretenses, or false representations or other fraudulent means to induce any woman to commit adultery or fornication. R.S., c. 146, s. 218.

Carnally  
knowing  
idiots.

**219.** Every one is guilty of an indictable offence and liable to four years' imprisonment who unlawfully and carnally knows, or attempts to have unlawful carnal knowledge of, any female idiot or imbecile, insane or deaf and dumb or feeble-minded woman or girl, under circumstances which do not amount to rape but where the offender knew or had good reason to believe, at the time of the offence, that the woman or girl was an idiot, or imbecile, or insane or deaf and dumb or feeble-minded. R.S., c. 146, s. 219; 1922, c. 16, s. 10.

Penalty.

**220.** Every one is guilty of an indictable offence and liable to a penalty not exceeding one hundred dollars and not less than ten dollars, or six months' imprisonment,

730

(a)

R.S., 1927.



- (a) who, being the keeper of any house, tent or wigwam, allows or suffers any unenfranchised Indian woman to be or remain in such house, tent or wigwam, knowing or having probable cause for believing that such Indian woman is in or remains in such house, tent or wigwam with the intention of prostituting herself therein; or Keeping habitation for prostitution of Indian women.
- (b) who, being an Indian woman, prostitutes herself therein; or Prostitution therein.
- (c) who, being an unenfranchised Indian woman, keeps, frequents or is found in a disorderly house, tent or wigwam used for any such purpose. Frequenting the same.

2. Every person who appears, acts or behaves as master or mistress, or as the person who has the care or management, of any house, tent or wigwam in which any such Indian woman is or remains for the purpose of prostituting herself therein, is deemed to be the keeper thereof, notwithstanding he or she is not in fact the real keeper thereof. R.S., c. 146, s. 220. Who deemed keeper.

#### *Nuisances.*

**221.** A common nuisance is an unlawful act or omission to discharge a legal duty, which act or omission endangers the lives, safety, health, property or comfort of the public, or by which the public are obstructed in the exercise or enjoyment of any right common to all His Majesty's subjects. R.S., c. 146, s. 221. Common nuisance defined.

**222.** Every one is guilty of an indictable offence and liable to one year's imprisonment or a fine who commits any common nuisance which endangers the lives, safety or health of the public, or which occasions injury to the person of any individual. R.S., c. 146, s. 222. Criminal common nuisances.

**223.** Any one convicted upon any indictment or information for any common nuisance other than those mentioned in the last preceding section, shall not be deemed to have committed a criminal offence; but all such proceedings or judgments may be taken and had as heretofore to abate or remedy the mischief done by such nuisance to the public right. R.S., c. 146, s. 223. Non-criminal common nuisances.

**224.** Every one is guilty of an indictable offence and liable to one year's imprisonment who knowingly and wilfully exposes for sale, or has in his possession with intent to sell, for human food, articles which he knows to be unfit for human food. Knowingly selling unfit food.

2. Every one who is convicted of this offence after a previous conviction for the same crime shall be liable to two years' imprisonment. R.S., c. 146, s. 224. Penalty for subsequent offence.

*Disorderly Houses.*

Bawdy  
house de-  
fined.

**225.** A common bawdy house is a house, room, set of rooms or place of any kind kept for purposes of prostitution or for the practice of acts of indecency, or occupied or resorted to by one or more persons for such purposes. 1917, c. 14, s. 3.

Common  
gaming-  
house  
defined.

**226.** A common gaming house is

- (a) a house, room or place kept by any person for gain, to which persons resort to for the purpose of playing at any game of chance, or at any mixed game of chance and skill; or
- (b) a house, room or place kept or used for playing therein at any game of chance, or any mixed game of chance and skill, in which
  - (i) a bank is kept by one or more of the players exclusively of the others; or
  - (ii) the whole or any portion of the stakes or bets or other proceeds at or from such games is either directly or indirectly paid to the person keeping such house, room or place;
  - (iii) any game is played the chances of which are not alike favourable to all the players, including among the players the banker or other person by whom the game is managed, or against whom the game is managed, or against whom the other players stake, play or bet.

Effect of  
part of  
game only  
being  
played  
there  
or stake  
elsewhere.

2. Any such house, room, or place shall be a common gaming-house, although part only of such game is played there and any other part thereof is played at some other place, either in Canada or elsewhere, and although the stake played for, or any money, valuables, or property depending on such game, is in some other place, either in Canada or elsewhere. R.S., c. 146, s. 226; 1918, c. 16, s. 2.

"Common  
betting-  
place"  
defined.

**227.** A common betting-house is a house, office, room or place

- (a) opened, kept or used for the purpose of betting between persons resorting thereto, and
  - (i) the owner, occupier or keeper thereof,
  - (ii) any person using the same,
  - (iii) any person procured or employed by, or acting for or on behalf of any such person,
  - (iv) any person having the care or management, or in any manner conducting the business thereof; or
- (b) opened, kept or used for the purpose of any money or valuable thing being received by or on behalf of any such person as aforesaid,

- (i) all or any part of which money or valuable thing or its equivalent is to be paid or given to any other person on any event or contingency of or relating to any horse-race or other race, fight, game or sport, or
- (ii) for securing the paying or giving by some other person of any money or valuable thing on any such event or contingency; or
- (c) opened, kept or used for the purpose of recording or registering bets upon any contingency or event, horse-race, or other race, fight, game or sport, or for the purpose of receiving money or other things of value to be transmitted for the purpose of being wagered upon any such contingency or event, horse-race or other race, fight, game or sport, whether any such bet is recorded or registered there, or any money or other thing of value is there received to be so transmitted or not; or
- (d) opened, kept or used for the purpose of facilitating or encouraging or assisting in the making of bets upon any contingency or event, horse-race or other race, fight, game or sport, by announcing the betting upon, or announcing or displaying the results of horse-races, or other races, fights, games or sports, or in any other manner, whether such contingency or event, horse-race or other race, fight, game or sport occurs or takes place in Canada or elsewhere.

2. The word "place," as used in this section and in the preceding section, includes any place, whether inclosed or not, and whether it is used permanently or temporarily, and whether there is or is not exclusive right of user. 1910, c. 10, s. 1; 1922, c. 16, s. 12.

**228.** Every one who, without lawful excuse, is found in any disorderly house shall be liable on summary conviction to a penalty not exceeding one hundred dollars and costs and in default of payment to two months' imprisonment.

Person found in disorderly house. Penalty for being inmate of bawdy house. Use of premises as disorderly house.

2. Any one who, as landlord, lessor, tenant, occupier, agent or otherwise, has charge or control of any premises and knowingly permits such premises or any part thereof to be let or used for the purposes of a disorderly house shall be liable upon summary conviction to a fine of two hundred dollars and costs, or to imprisonment not exceeding two months, or to both fine and imprisonment. 1913, c. 13, ss. 11 and 12.

**229.** Every one is guilty of an indictable offence and liable to one year's imprisonment who keeps any disorderly house, that is to say, any common bawdy-house, common

Disorderly house.

gaming-house, or common betting-house, as hereinbefore defined.

Keeper of  
disorderly  
house.

2. Any one who appears, acts or behaves as master or mistress, or as the person having the care, government or management of any disorderly house, or as assisting in such care, government or management, shall be deemed to be the keeper thereof and shall be liable to be prosecuted and punished as such although in fact he or she is not the real owner or keeper thereof.

Penalty for  
being inmate  
of bawdy  
house.

3. Every one is guilty of an indictable offence and liable to a penalty not exceeding one hundred dollars and costs and, in default of payment, to imprisonment for a term not exceeding two months or to imprisonment for a term not exceeding twelve months, who is an inmate of any common bawdy house.

Penalty for  
third, etc.,  
conviction.

4. Any one who has been convicted three or more times of any of the offences mentioned in subsections one, two and three hereof shall be liable on the third or any subsequent conviction to imprisonment for a term of not less than three months and not exceeding two years.

Liability of  
landlord.

5. If the landlord, lessor or agent of premises in respect of which any person has been convicted as the keeper of a common bawdy house fails, after such conviction has been brought to his notice, to exercise any right he may have to determine the tenancy or right of occupation of the person so convicted, and subsequently any such offence is again committed on the said premises, such landlord, lessor or agent shall be deemed to be a keeper of a common bawdy house unless he proves that he has taken all reasonable steps to prevent the recurrence of the offence. 1909, c. 9, s. 2; 1913, c. 13, ss. 10 and 11; 1915, c. 12, ss. 5 and 6; 1923, c. 41, s. 2.

Penalty.

**230.** Every one is guilty of an offence and liable, on summary conviction before two justices, to a penalty not exceeding one hundred dollars, and to six months' imprisonment with or without hard labour who,

Preventing  
officer  
entering.

(a) wilfully prevents any constable or other officer duly authorized to enter any disorderly house, from entering the same or any part thereof; or

Obstruct-  
ing.

(b) obstructs or delays any such constable or officer in so entering; or

Securing  
door.

(c) by any bolt, chain or other contrivance secures any external or internal door of, or means of access to, any common gaming house so authorized to be entered; or

Means to  
prevent.

(d) uses any means or contrivance whatsoever for the purpose of preventing, obstructing or delaying the entry of any constable or officer, authorized as aforesaid, into any such disorderly house or any part thereof;

(e) being the owner or other person in control of premises occupied or used as a disorderly house, knowingly allows any contrivance whatsoever upon the said premises for the purpose of preventing, obstructing or delaying the entry of any constable or officer authorized as aforesaid into any such disorderly house, or any part thereof. R.S., c. 146, s. 230; 1910, c. 10, s. 2.

Use of  
contrivance  
to prevent  
entry.

231. Every one is guilty of an indictable offence and liable to five years' imprisonment, and to a fine of five hundred dollars, who, with the intent to make gain or profit by the rise or fall in price of any stock of any incorporated or unincorporated company or undertaking, either in Canada or elsewhere, or of any goods, wares or merchandise,

Gaming in  
stocks or  
merchan-  
dise.

(a) without the *bona fide* intention of acquiring any such shares, goods, wares or merchandise, or of selling the same, as the case may be, makes or signs, or authorizes to be made or signed, any contract or agreement, oral or written, purporting to be for the sale or purchase of any shares of stock, goods, wares or merchandise; or

Making  
contract  
without  
intention  
of acquir-  
ing or  
selling.

(b) makes or signs, or authorizes to be made or signed, any contract or agreement, oral or written, purporting to be for the sale or purchase of any such shares of stock, goods, wares or merchandise in respect of which no delivery of the thing sold or purchased is made or received, and without the *bona fide* intention to make or receive such delivery.

Contract  
without  
delivery or  
intention of  
receiving  
delivery.

2. It is not an offence under this section if the broker of the purchaser receives delivery, on his behalf, of the articles sold, notwithstanding that such broker retains or pledges the same as security for the advance of the purchase money or any part thereof. R.S., c. 146, s. 231.

Saving.

232. Every office, or place of business wherein is carried on the business of making or signing, or procuring to be made or signed, or negotiating or bargaining for the making or signing of contracts of sale or purchase prohibited by the last preceding section is a common gaming-house, and every one who as principal or agent occupies, uses, manages or maintains the same is the keeper of a common gaming-house. R.S., c. 146, s. 232.

Place of  
such busi-  
ness is  
common  
gaming-  
house.

233. Every one is guilty of an indictable offence and liable to one year's imprisonment who habitually frequents any office or place wherein the making or signing or procuring to be made or signed, or the negotiating or bargain-

Frequent-  
ing places  
where  
gaming in  
stocks car-  
ried on.

ing for the making or signing, of such prohibited contracts of sale or purchase is carried on. R.S., c. 146, s. 233.

Penalty.

**234.** Every one is guilty of an indictable offence and liable to one year's imprisonment who

Obtaining  
money, etc.  
by gamb-  
ling in  
public con-  
veyances.

(a) in any railway car or steamboat, used as a public conveyance for passengers, by means of any game of cards, dice or other instrument of gambling, or by any device of like character, obtains from any other person any money, chattel, valuable security or property; or

Attempting.

(b) attempts to commit such offence by actually engaging any person in any such game with intent to obtain money or other valuable thing from him.

Arrest of  
offender.

2. Every conductor, master or superior officer in charge of, and every clerk or employee when authorized by the conductor, master or superior officer in charge of, any railway train or steamboat, station or landing place in or at which any such offence, as aforesaid, is committed or attempted, shall, with or without warrant, arrest any person whom he has good reason to believe to have committed or attempted to commit any such offence, and take him before a justice, and make complaint of such offence on oath, in writing.

Penalty for  
omitting.

3. Every conductor, master or superior officer in charge of any such railway car or steamboat, who makes default in the discharge of any such duty is liable, on summary conviction, to a penalty not exceeding one hundred dollars and not less than twenty dollars.

Posting up  
section.

4. It shall be the duty of every person who owns or works any such railway car or steamboat to keep a copy of this section posted up in some conspicuous part of such railway car or steamboat.

Penalty.

5. Every person who makes default in the discharge of such duty is liable to a penalty not exceeding one hundred dollars and not less than twenty dollars. R.S., c. 146, s. 234.

Betting,  
pool selling  
and book-  
making.

**235.** Every one is guilty of an indictable offence, and liable to one year's imprisonment, and to a fine not exceeding one thousand dollars, who,

(a) uses or knowingly allows any part of any premises under his control to be used for the purpose of recording or registering any bet or wager, or selling any pool; or

(b) imports, makes, buys, sells, rents, leases, hires or keeps, exhibits, employs or knowingly allows to be kept, exhibited or employed in any part of any premises under his control any device or apparatus for

the purpose of recording any bet or wager or selling any pool, or any gambling, wagering or betting machine or device; or

(c) becomes the custodian or depository of any money, property or valuable thing staked, wagered or pledged in any case or transaction in which such staking, wagering or pledging is itself contrary to the provisions of this Act; or

(d) records or registers any bet or wager, or sells any pool upon the results

(i) of any political or municipal election,

(ii) of any race,

(iii) of any contest or trial of skill or endurance of man or beast; or

(e) engages in pool-selling or book-making, or in the business or occupation of betting or wagering, or makes any agreement for the purchase or sale of betting or gaming privileges, or for the purchase or sale of information intended to assist in book-making, pool-selling, betting or wagering; or

(f) advertises, prints, publishes, exhibits, posts up, sells or supplies, or offers to sell or supply, any information intended to assist in, or intended for use in connection with book-making, pool-selling, betting or wagering upon any horse-race or other race, fight, game or sport, whether at the time of advertising, printing, publishing, exhibiting, posting up or supplying such news or information, such horse-race or other race, fight, game or sport has or has not taken place; or

(g) imports or brings into Canada any matter, whether printed or in writing, which from the nature of its contents or from other evidence adduced is not a newspaper published in good faith mainly for the purpose of supplying news and comment, other than information intended or likely to promote, assist in, or be of use in gambling, book-making, pool-selling, betting or wagering upon any race of any kind, fight, game or sport, whether held within or without Canada, and whether published before, during or after such race, fight, game or sport; or is not a magazine or other periodical published in good faith mainly for the purpose of supplying literature and comment, other than such information as aforesaid; but is intended or likely to afford such information as aforesaid; or

(h) advertises, prints, publishes, exhibits, posts up, or otherwise gives notice of any offer, invitation or inducement to bet on, to guess or to foretell the result

of any contest, or any result or contingency of or relating to any contest; or

(i) wilfully and knowingly sends, transmits, delivers or receives any message by telegraph, telephone, mail or express conveying any information relating to book-making, pool-selling, betting or wagering, or intended to assist in book-making, pool-selling, betting or wagering; or

(j) aids or assists in any manner in any of the said acts which are by this section forbidden.

Betting,  
pool-selling  
and book-  
making.

2. The provisions of this section and of section two hundred and twenty-seven and of subsections one and two of section two hundred and twenty-nine, shall not extend to any person or association by reason of his or their becoming the custodian or depository of any money, property or valuable thing staked or to be paid to the winner of any lawful race, sport, game or exercise, or to be paid to the owner of any horse engaged in any lawful race, or to be paid to the winner of any bets between not more than ten individuals or to a private bet between individuals not engaged in any way in a business of betting, or to bets made or records of bets made through the agency of a pari-mutuel system only as hereinafter provided, upon the race-course of any association incorporated in any manner before the twentieth day of March, one thousand nine hundred and twelve, or incorporated after that date by special Act of the Parliament of Canada or of the Legislature of any province of Canada, during the actual progress of a race-meeting conducted by such association upon races being run thereon: Provided that as to race-meetings at which there are running races no such race-meeting continues for more than seven days of continuous racing on days on which such racing may be lawfully carried on, and that there be not more than seven races on any such day; and provided that no such association holds, and that on any one race-track there be not held, in any one calendar year more than two race-meetings at which there are running races and that there is an interval of at least twenty days between meetings; and provided that as regards race-meetings held upon the race-course of any association incorporated after the fourth day of May, one thousand nine hundred and ten, the said race-course be located in or within three miles of a Canadian town or city having a population of not less than fifteen thousand people: Provided also, that where any person or association becomes a custodian or depository of any money, bet or stakes during the actual progress of a race-meeting conducted by and on the race-course of such an association, upon races being run thereon, that the percentage deducted and retained by the association in respect



of each race from the total amount of money so deposited, or of which the said person or association becomes the custodian, *under the pari-mutuel system*, shall not exceed the following:—

|                                                                                                                                   |            |
|-----------------------------------------------------------------------------------------------------------------------------------|------------|
| Where the total amount staked or deposited on each race is under \$20,000.....                                                    | 7 per cent |
| Over \$20,000, 7 per cent on \$20,000 and on the excess up to \$30,000.....                                                       | 6 per cent |
| Over \$30,000, 7 per cent on \$20,000, 6 per cent on next \$10,000 and on the excess up to \$40,000 .....                         | 5 per cent |
| Over \$40,000, 7 per cent on \$20,000, 6 per cent on next \$10,000, 5 per cent on next \$10,000 and on the excess up to \$50,000. | 4 per cent |
| Over \$50,000, on the excess.....                                                                                                 | 3 per cent |

In addition to the percentages above set forth, the person or association shall also be entitled to retain the odd cents over any multiple of five cents, and the odd cents may be eliminated from the amount to be paid to any better: Provided also, that for the purpose of recording the amounts deposited by the betters a type of pari-mutuel machine be used which has been approved by an officer appointed by the Minister of Agriculture and that the operations of the said machines and the carrying out of the provisions of this section be under the supervision of an officer appointed by the Minister of Agriculture whose duty it shall be to ascertain that the said machines are stopped before each race and no further amounts are deposited when the horses have passed the judges' stand on their way to the post, and that the machines are then locked. The expense incident to such supervision for each meeting to be borne by the association: Provided further, that the Minister of Agriculture if he is not satisfied that a proper proportion of gate receipts and percentages taken from the pari-mutuel pools is being given in purses to horses taking part in the race meeting, or that the provisions of this section are not being carried out in good faith by the person or association conducting the race meeting, may at any time order the pari-mutuel machines to be locked and their operation stopped for such time as he may think fit.

3. The provisions of said sections shall not apply to race-meetings at which there are trotting or pacing races exclusively, where pool-selling, betting or wagering is permitted by an association incorporated as provided by subsection two of this section on such race-course during the actual progress of the race-meeting conducted by the association: Provided also that as to the race-meetings at which there are trotting or pacing races exclusively, no

such race-meeting continues for more than three days on which racing may be carried on, in any one calendar week, and that no race-meetings at which there are trotting or pacing races are held on the same grounds for more than fourteen days in all in any one calendar year. 1910, c. 10, s. 3; 1913, c. 13, s. 13; 1920, c. 43, s. 6; 1922, c. 16, ss. 12 and 13; 1923, c. 41, ss. 3, 5 and 6.

Penalty.

**236.** Every one is guilty of an indictable offence and liable to two years' imprisonment and to a fine not exceeding two thousand dollars who

Printing  
lottery  
scheme.

(a) makes, prints, advertises or publishes, or causes or procures to be made, printed, advertised or published, any proposal, scheme or plan for advancing, lending, giving, selling or in any way disposing of any property, by lots, cards, tickets, or any mode of chance whatsoever; or

Selling  
lottery  
tickets, etc.

(b) sells, barter, exchanges or otherwise disposes of, or causes or procures, or aids or assists in, the sale, barter, exchange or other disposal of, or offers for sale, barter or exchange, any lot, card, ticket or other means or device for advancing, lending, giving, selling or otherwise disposing of any property, by lots, tickets or any mode of chance whatsoever; or

Conducting  
lottery  
scheme.

(c) conducts or manages any scheme, contrivance or operation of any kind for the purpose of determining who, or the holders of what lots, tickets, numbers or chances, are the winners of any property so proposed to be advanced, loaned, given, sold or disposed of; or

Disposal of  
goods by  
game.

(d) disposes of any goods, wares or merchandise by any game or mode of chance or mixed chance and skill in which the contestant or competitor pays money or other valuable consideration; or

Staking  
money on  
gambling  
devices.

(e) induces any person to stake or hazard any money or other valuable property or thing on the result of any dice game, shell game, punch board, coin table or on the operation of any wheel of fortune:

Agricul-  
tural fairs  
granted  
partial  
exemption  
from pen-  
alty  
clauses.

Provided that the provisions of paragraphs (d) and (e) of this subsection in so far as they do not relate to any dice game, shell game, punch board or coin table, shall not apply to any agricultural fair or exhibition, or to any operator of a concession leased by any agricultural fair or exhibition board within its own grounds and operated during the period of the annual fair held on such grounds.

Buying  
lottery  
tickets, etc.

2. Every one is guilty of an offence and liable on summary conviction to a penalty of twenty dollars, who buys, takes or receives any such lot, ticket or other device as aforesaid.

3. Every sale, loan, gift, barter or exchange of any property, by any lottery, ticket, card or other mode of chance depending upon or to be determined by chance or lot, is void, and all property so sold, lent, given, bartered or exchanged, is liable to be forfeited to any person who sues for the same by action or information in any court of competent jurisdiction. Lottery sale void.

4. No such forfeiture shall affect any right or title to such property acquired by any *bona fide* purchaser for valuable consideration without notice. Bona fide purchases.

5. This section includes the printing or publishing, or causing to be printed or published, of any advertisement, scheme, proposal or plan of any foreign lottery, and the sale or offer for sale of any ticket, chance or share, in any such lottery, or the advertisement for sale of such ticket, chance or share, and the conducting or managing of any such scheme, contrivance or operation for determining the winners in any such lottery. Foreign lottery included.

6. This section does not apply to

- (a) the division by lot or chance of any property by joint tenants or tenants in common, or persons having joint interests (*droits indivis*) in any such property; Saving. Dividing property by lot.
- (b) raffles for prizes of small value at any bazaar held for any charitable or religious object, if permission to hold the same has been obtained from the city or other municipal council, or from the mayor, reeve or other chief officer of the city, town or other municipality, wherein such bazaar is held, and the articles raffled for thereat have first been offered for sale and none of them are of a value exceeding fifty dollars; Raffles at church bazaar.
- (c) the distribution by lot of premiums given as rewards to promote thrift by punctuality in making periodical deposits of weekly savings in any chartered savings bank; Rewards to promote thrift.
- (d) bonds, debentures, debenture stock or other securities recallable by drawing of lots and redeemable with interest and providing for payment of premiums upon redemption or otherwise; Securities recallable by drawing of lots.
- (e) the Art Union of London, Great Britain, or the Art Union of Ireland. R.S., c. 146, s. 236; 1922, c. 16, s. 11; 1925, c. 38, s. 4. London Art Union, etc.

**237.** Every one is guilty of an indictable offence and liable to five years' imprisonment who, Penalty.

- (a) without lawful excuse, neglects to perform any duty either imposed upon him by law or undertaken by him with reference to the burial of any dead human body or human remains; or Not burying the dead.

Indignity  
to dead  
body.

- (b) improperly or indecently interferes with or offers any indignity to any dead human body or human remains, whether buried or not. R.S., c. 146, s. 237.

*Vagrancy.*

Vagrant.

**238.** Every one is a loose, idle or disorderly person or vagrant who,

No visible  
means of  
support.

- (a) not having any visible means of subsistence, is found wandering abroad or lodging in any barn or outhouse, or in any deserted or unoccupied building, or in any cart or wagon, or in any railway carriage or freight car, or in any railway building, and not giving a good account of himself, or who, not having any visible means of maintaining himself, lives without employment;

Not main-  
taining  
family.

- (b) being able to work and thereby or by other means to maintain himself and family, wilfully refuses or neglects to do so;

Indecent  
exhibitions.

- (c) openly exposes or exhibits in any street, road, highway or public place, any indecent exhibition;

Begging.

- (d) without a certificate signed, within six months, by a priest, clergyman or minister of the Gospel, or two justices, residing in the municipality where the alms are being asked, that he or she is a deserving object of charity, wanders about and begs, or goes about from door to door, or places himself or herself in any street, highway, passage or public place to beg or receive alms;

Loitering  
on high-  
way.

- (e) loiters on any street, road, highway or public place, and obstructs passengers by standing across the foot-path, or by using insulting language, or in any other way;

Disorderly  
conduct.

- (f) causes a disturbance in or near any street, road, highway or public place, by screaming, swearing or singing, or by being drunk, or by impeding or incommoding peaceable passengers;

Wanton  
disturb-  
ances.

- (g) by discharging firearms, or by riotous or disorderly conduct in any street or highway, wantonly disturbs the peace and quiet of the inmates of any dwelling-house near such street or highway;

Destroying  
property.

- (h) tears down or defaces signs, breaks windows, or doors or door plates, or the walls of houses, roads or gardens, or destroys fences;

Night  
walker.

- (i) being a common prostitute or night walker, wanders in the fields, public streets or highways, lanes or places of public meeting or gathering of people, and does not give a satisfactory account of herself;

- (j) having no peaceable profession or calling to maintain himself by, for the most part supports himself by gaming or crime, or by the avails of prostitution. R.S., c. 146, s. 238; 1915, c. 12, s. 7. Supported by prostitution.

**239.** Every loose, idle or disorderly person or vagrant is liable, on summary conviction, to a fine not exceeding fifty dollars or to imprisonment, with or without hard labour, for any term not exceeding six months, or to both: Provided that no aged or infirm person shall be convicted for any reason within paragraph (a) of the last preceding section, as a loose, idle or disorderly person or vagrant in the county of which he has for the two years immediately preceding been a resident. R.S., c. 146, s. 239. Penalty for vagrancy  
Proviso.

## PART VI.

### OFFENCES AGAINST THE PERSON AND REPUTATION.

#### *Interpretation.*

**240.** In this Part, unless the context otherwise requires, Definitions.

- (a) "abandon" or "expose" includes a wilful omission to take charge of any child referred to on the part of a person legally bound to take charge of such child, as well as any mode of dealing with it calculated to leave it exposed to risk without protection; "Abandon."  
"Expose."
- (b) "form of marriage" includes any form either recognized as a valid form by the law of the place where it is gone through, or which, though not so recognized, is such that a marriage celebrated there in that form is recognized as binding by the law of the place where the offender is tried; "Form of marriage."
- (c) "guardian" includes any person who has in law or in fact the custody or control of any child referred to. R.S., c. 146, s. 240. "Guardian."

#### *Duties Tending to the Preservation of Life.*

**241.** Every one who has charge of any other person unable by reason either of detention, age, sickness, insanity or any other cause, to withdraw himself from such charge, and unable to provide himself with the necessaries of life, is, whether such charge is undertaken by him under any contract, or is imposed upon him by law, or by reason of his unlawful act, under a legal duty to supply that person with the necessaries of life, and is criminally responsible for omitting, without lawful excuse, to perform such duty if the death of such person is caused, or if his life is endangered, or his health has been or is likely to be permanently injured, by such omission. R.S., c. 146, s. 241. Duty of person in charge to provide necessaries of life.  
Criminal responsibility.

743

**242.**

R.S., 1927.

Duty of  
head of  
family to  
provide  
necessaries.

**242.** Every one who as parent, guardian or head of a family is under a legal duty to provide necessaries for any child under the age of sixteen years is criminally responsible for omitting, without lawful excuse, to do so while such child remains a member of his or her household, whether such child is helpless or not, if the death of such child is caused, or if his life is endangered, or his health is or is likely to be permanently injured, by such omission.

Criminal  
responsi-  
bility.

2. Every one who is under a legal duty to provide necessaries for his wife, is criminally responsible for omitting, without lawful excuse so to do, if the death of his wife is caused, or if her life is endangered, or her health is or is likely to be permanently injured, by such omission.

3. Every one is guilty of an offence and liable upon indictment or on summary conviction to a fine of five hundred dollars, or to one year's imprisonment, or to both, who,

Neglect to  
provide for  
wife and  
children.

(a) as a husband or head of a family, is under a legal duty to provide necessaries for his wife or any child under sixteen years of age; or

For ward.

(b) as a parent or guardian, is under a legal duty to provide necessaries for any child under sixteen years of age;

and who, if such wife or child is in destitute or necessitous circumstances, without lawful excuse, neglects or refuses to provide such necessaries.

Evidence  
of mar-  
riage and  
parentage.

4. Upon any prosecution under this section

(a) evidence that a man has cohabited with a woman or has in any way recognized her as being his wife shall be *prima facie* evidence that they are lawfully married;

(b) evidence that a man has in any way recognized children as being his children shall be *prima facie* evidence that they are his legitimate children;

What  
shall be  
*prima facie*  
evidence of  
neglect to  
supply  
necessaries.

(c) evidence that a man has, without lawful cause or excuse, left his wife without making provision for her maintenance for a period of at least one month from the date of his so leaving, or for the maintenance for the same period of any child of his under the age of sixteen years, shall be *prima facie* evidence of neglect to provide necessaries under this section. R.S., c. 146, s. 242; 1913, c. 13, s. 14; 1919, c. 46, s. 7; 1923, c. 41, s. 7.

Duty of  
masters.

**243.** Every one who, as master or mistress, has contracted to provide necessary food, clothing or lodging for any servant or apprentice under the age of sixteen years is under a legal duty to provide the same, and is criminally responsible for omitting, without lawful excuse, to perform such duty, if the death of such servant or appren-

tice is caused, or if his life is endangered, or his health has been or is likely to be permanently injured, by such omission. R.S., c. 146, s. 243.

**244.** Every one is guilty of an indictable offence and liable to three years' imprisonment who, being bound to perform any duty specified in section two hundred and forty-one, subsections one and two of section two hundred and forty-two, and section two hundred and forty-three of this Act, without lawful excuse neglects or refuses to do so, unless the offence amounts to culpable homicide. 1922, c. 16, s. 2.

Omission of duty.

Penalty.

**245.** Every one is guilty of an indictable offence and liable to three years' imprisonment who unlawfully abandons or exposes any child under the age of two years, whereby its life is endangered or its health is permanently injured. R.S., c. 146, s. 245.

Abandoning children under two years.

**246.** Every one who undertakes, except in cases of necessity, to administer surgical or medical treatment, or to do any other lawful act the doing of which is or may be dangerous to life, is under a legal duty to have and to use reasonable knowledge, skill and care in doing any such act, and is criminally responsible for omitting, without lawful excuse, to discharge that duty if death is caused by such omission. R.S., c. 146, s. 246.

Duty of persons undertaking acts dangerous to life.

**247.** Every one who has in his charge or under his control anything whatever, whether animate or inanimate, or who erects, makes or maintains anything whatever which, in the absence of precaution or care, may endanger human life, is under a legal duty to take reasonable precautions against, and use reasonable care to avoid, such danger, and is criminally responsible for the consequences of omitting, without lawful excuse, to perform such duty. R.S., c. 146, s. 247.

Duty of persons in charge of dangerous things.

**248.** Every one who undertakes to do any act, the omission to do which is or may be dangerous to life, is under a legal duty to do that act, and is criminally responsible for the consequences of omitting, without lawful excuse, to perform that duty. R.S., c. 146, s. 248.

Duty to avoid omissions dangerous to life.

**249.** Every one is guilty of an indictable offence and liable to three years' imprisonment who, being legally liable as master or mistress to provide for any apprentice or servant, unlawfully does, or causes to be done, any bodily harm to any such apprentice or servant so that the life of such apprentice or servant is endangered or the health of such apprentice or servant has been, or is likely to be, permanently injured. R.S., c. 146, s. 249.

Causing bodily harm to apprentices or servants.

*Homicide.*

**Definition.** **250.** Homicide is the killing of a human being by another, directly or indirectly, by any means whatsoever. R.S., c. 146, s. 250.

**When a child becomes a human being.** **251.** A child becomes a human being within the meaning of this Act when it has completely proceeded, in a living state, from the body of its mother, whether it has breathed or not, whether it has an independent circulation or not, and whether the navel string is severed or not.

**Killing child.** 2. The killing of such child is homicide when it dies in consequence of injuries received before, during or after birth. R.S., c. 146, s. 251.

**Homicide when culpable.** **252.** Homicide may be either culpable or not culpable.  
2. Homicide is culpable when it consists in the killing of any person, either by an unlawful act or by an omission, without lawful excuse, to perform or observe any legal duty, or by both combined, or by causing a person, by threats or fear of violence, or by deception, to do an act which causes that person's death, or by wilfully frightening a child or sick person.

**Offence.** 3. Culpable homicide is either murder or manslaughter.  
**No offence.** 4. Homicide which is not culpable is not an offence. R.S., c. 146, s. 252.

**Procuring death by false evidence.** **253.** Procuring by false evidence the conviction and death of any person by the sentence of the law shall not be deemed to be homicide. R.S., c. 146, s. 253.

**Death within a year and a day.** **254.** No one is criminally responsible for the killing of another unless the death takes place within a year and a day of the cause of death.

**How reckoned.** 2. The period of a year and a day shall be reckoned inclusive of the day on which the last unlawful act contributing to the cause of death took place.

**Idem.** 3. Where the cause of death is an omission to fulfil a legal duty the period shall be reckoned inclusive of the day on which such omission ceased.

**Idem.** 4. When death is in part caused by an unlawful act and in part by an omission, the period shall be reckoned inclusive of the day on which the last unlawful act took place or the omission ceased, whichever happened last. R.S., c. 146, s. 254.

**Killing by influence on the mind.** **255.** No one is criminally responsible for the killing of another by any influence on the mind alone, nor for the killing of another by any disorder or disease arising from such influence, save in either case by wilfully frightening a child or sick person. R.S., c. 146, s. 255.



**256.** Every one who, by any act or omission, causes the death of another, kills that person, although the effect of the bodily injury caused to such other person be merely to accelerate his death while labouring under some disorder or disease arising from some other cause. R.S., c. 146, s. 256. Acceleration of death.

**257.** Every one who, by any act or omission, causes the death of another, kills that person, although death from that cause might have been prevented by resorting to proper means. R.S., c. 146, s. 257. Death which might have been prevented.

**258.** Every one who causes a bodily injury, which is of itself of a dangerous nature to any person, from which death results, kills that person, although the immediate cause of death be treatment proper or improper applied in good faith. R.S., c. 146, s. 258. Causing injury the treatment of which brings death.

### *Murder and Manslaughter.*

**259.** Culpable homicide is murder, Intention.

- (a) if the offender means to cause the death of the person killed;
- (b) if the offender means to cause to the person killed any bodily injury which is known to the offender to be likely to cause death, and is reckless whether death ensues or not;
- (c) if the offender means to cause death, or, being so reckless as aforesaid, means to cause such bodily injury as aforesaid to one person, and by accident or mistake kills another person, though he does not mean to hurt the person killed;
- (d) if the offender, for any unlawful object, does an act which he knows or ought to have known to be likely to cause death, and thereby kills any person, though he may have desired that his object should be effected without hurting any one. R.S., c. 146, s. 259.

**260.** In case of treason and the other offences against the King's authority and person mentioned in Part II, piracy and offences deemed to be piracy, escape or rescue from prison or lawful custody, resisting lawful apprehension, murder, rape, forcible abduction, robbery, burglary or arson, culpable homicide is also murder, whether the offender means or not death to ensue, or knows or not that death is likely to ensue, Culpable homicide murder in certain cases.

- (a) if he means to inflict grievous bodily injury for the purpose of facilitating the commission of any of the offences in this section mentioned, or the flight of the offender upon the commission or attempted commission thereof, and death ensues from such injury; or If grievous bodily harm intended.
- (b)

Narcotic  
adminis-  
tered.

(b) if he administers any stupefying or overpowering thing for either of the purposes aforesaid, and death ensues from the effects thereof; or

Wilfully  
stopping  
the breath.

(c) if he by any means wilfully stops the breath of any person for either of the purposes aforesaid, and death ensues from such stopping of the breath. R.S., c. 146, s. 260.

Homicide  
reduced to  
man-  
slaughter.

**261.** Culpable homicide, which would otherwise be murder, may be reduced to manslaughter if the person who causes death does so in the heat of passion caused by sudden provocation.

Provoca-  
tion  
defined.

2. Any wrongful act or insult, of such a nature as to be sufficient to deprive an ordinary person of the power of self-control, may be provocation if the offender acts upon it on the sudden, and before there has been time for his passion to cool.

Question  
of fact.

3. Whether or not any particular wrongful act or insult amounts to provocation, and whether or not the person provoked was actually deprived of the power of self-control by the provocation which he received, shall be questions of fact: Provided that no one shall be held to give provocation to another by doing that which he had a legal right to do, or by doing anything which the offender incited him to do in order to provide the offender with an excuse for killing or doing bodily harm to any person.

Exception.  
Illegal  
arrest.

4. The illegality of an arrest shall not necessarily reduce an offence of culpable homicide from murder to manslaughter, but if the illegality was known to the offender it may be evidence of provocation. R.S., c. 146, s. 261.

Man-  
slaughter.

**262.** Culpable homicide, not amounting to murder, is manslaughter. R.S., c. 146, s. 262.

Punish-  
ment for  
murder.

**263.** Every one who commits murder is guilty of an indictable offence and shall, on conviction thereof, be sentenced to death. R.S., c. 146, s. 263.

Attempts.

**264.** Every one is guilty of an indictable offence and liable to imprisonment for life, who, with intent to commit murder,

Admin-  
istering  
poison.

(a) administers any poison or other destructive thing to any person, or causes any poison or destructive thing to be so administered or taken, or attempts to administer it, or attempts to cause it to be so administered or taken; or

Wounding.

(b) by any means whatever wounds or causes any grievous bodily harm to any person; or

Shooting.

(c) shoots at any person, or, by drawing a trigger or in any other manner, attempts to discharge at any person any kind of loaded arms; or

- (d) attempts to drown, suffocate, or strangle any person; or Drowning.
- (e) destroys or damages any building by the explosion of any explosive substance; or Destroying building.
- (f) sets fire to any ship or vessel or any part thereof, or any part of the tackle, apparel or furniture thereof, or to any goods or chattels being therein; or Burning ships.
- (g) casts away or destroys any vessel; or Casting away vessel.
- (h) by any other means attempts to commit murder. By other means.
- R.S., c. 146, s. 264.

**265.** Every one is guilty of an indictable offence and liable to ten years' imprisonment who sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing threatening to kill or murder any person. R.S., c. 146, s. 265. Letters threatening murder.

**266.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment, who Penalty.

- (a) conspires or agrees with any person to murder or to cause to be murdered any other person, whether the person intended to be murdered is a subject of His Majesty or not, or is within His Majesty's dominions or not; or Conspiring to murder.
- (b) counsels or attempts to procure any person to murder such other person anywhere, although such person is not murdered in consequence of such counselling or attempted procurement. R.S., c. 146, s. 266. Counselling murder.

**267.** Every one is guilty of an indictable offence and liable to imprisonment for life, who is an accessory after the fact to murder. R.S., c. 146, s. 267. Accessory after the fact.

**268.** Every one who commits manslaughter is guilty of an indictable offence and liable to imprisonment for life. R.S., c. 146, s. 268. Punishment for manslaughter.

### *Suicide.*

**269.** Every one is guilty of an indictable offence and liable to imprisonment for life who counsels or procures any person to commit suicide, actually committed in consequence of such counselling or procurement, or who aids or abets any person in the commission of suicide. R.S., c. 146, s. 269. Aiding or counselling.

**270.** Every one who attempts to commit suicide is guilty of an indictable offence and liable to two years' imprisonment. R.S., c. 146, s. 270. Attempt.

*Neglect in Childbirth and Concealing Dead Body.*

Neglect-  
ing to  
obtain  
assistance  
in child-  
birth.

**271.** Every woman is guilty of an indictable offence who, with either of the intents in this section mentioned, being with child and being about to be delivered, neglects to provide reasonable assistance in her delivery, if the child is permanently injured thereby, or dies, either just before, or during, or shortly after birth, unless she proves that such death or permanent injury was not caused by such neglect, or by any wrongful act to which she was a party, and is liable,

Penalty.

(a) if the intent of such neglect be that the child shall not live, to imprisonment for life;

Penalty.

(b) if the intent of such neglect be to conceal the fact of her having had a child, to imprisonment for seven years. R.S., c. 146, s. 271.

Conceal-  
ing dead  
body of  
child.

**272.** Every one is guilty of an indictable offence and liable to two years' imprisonment, who disposes of the dead body of any child in any manner, with intent to conceal the fact that its mother was delivered of it, whether the child died before, or during, or after birth. R.S., c. 146, s. 272.

*Bodily Injuries and Acts and Omissions Causing Danger to the Person.*

Wounding  
with  
intent.

**273.** Every one is guilty of an indictable offence and liable to imprisonment for life who, with intent to maim, disfigure or disable any person, or to do some other grievous bodily harm to any person, or with intent to resist or prevent the lawful apprehension or detainer of any person, unlawfully by any means wounds or causes any grievous bodily harm to any person, or shoots at any person, or by drawing a trigger, or in any other manner, attempts to discharge any kind of loaded arms at any person. R.S., c. 146, s. 273.

Wounding.

**274.** Every one is guilty of an indictable offence and liable to three years' imprisonment who unlawfully wounds or inflicts any grievous bodily harm upon any other person, either with or without any weapon or instrument. R.S., c. 146, s. 274.

Bodily  
harm.

Penalty.

**275.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who wilfully

Shooting  
at the  
King's  
vessels.  
Wounding  
public  
officer.

(a) shoots at any vessel belonging to His Majesty or in the service of Canada; or

(b) maims or wounds any public officer engaged in the execution of his duty or any person acting in aid of such officer. R.S., c. 146, s. 275.

750

**276.**

R.S., 1927.

**276.** Every one is guilty of an indictable offence and <sup>Penalty.</sup> liable to imprisonment for life and to be whipped, who with intent thereby to enable himself or any other person to commit, or with intent thereby to assist any other person <sup>Offence.</sup> in committing, any indictable offence,

(a) by any means whatsoever, attempts to choke, suffocate or strangle any other person, or by any means <sup>By strangling.</sup> calculated to choke, suffocate or strangle, attempts to render any other person insensible, unconscious or incapable of resistance; or

(b) unlawfully applies or administers to, or causes to <sup>By narcotic.</sup> be taken by, or attempts to apply or administer to, or attempts, or causes to be administered to or taken by, any person, any chloroform, laudanum or other stupefying or overpowering drug, matter or thing. R.S., c. 146, s. 276.

**277.** Every one is guilty of an indictable offence and <sup>Adminis-</sup> liable to fourteen years' imprisonment who unlawfully <sup>tering</sup> administers to, or causes to be administered to, or taken <sup>poison to</sup> by any other person, any poison or other destructive or <sup>endanger</sup> noxious thing, so as thereby to endanger the life of such <sup>life.</sup> person, or so as thereby to inflict upon such person any grievous bodily harm. R.S., c. 146, s. 277.

**278.** Every one is guilty of an indictable offence and <sup>Adminis-</sup> liable to three years' imprisonment who unlawfully ad- <sup>tering</sup> ministers to, or causes to be administered to or taken by, <sup>poison</sup> any other person, any poison or other destructive or <sup>with</sup> noxious thing, with intent to injure, aggrieve or annoy <sup>intent to</sup> such person. R.S., c. 146, s. 278. <sup>injure.</sup>

**279.** Every one is guilty of an indictable offence and <sup>Causing</sup> liable to imprisonment for life who unlawfully and by the <sup>bodily in-</sup> explosion of an explosive substance burns, maims, dis- <sup>juries by</sup> figures, disables or does any grievous bodily harm to any <sup>explosives.</sup> person. R.S., c. 146, s. 279.

**280.** Every one who unlawfully, <sup>Intent</sup>

- (a) with intent to burn, maim, disfigure or disable any <sup>to harm.</sup> person, or do some grievous bodily harm to any person, whether any bodily harm is effected or not,
- (i) causes any explosive substance to explode, <sup>Explosives.</sup>
  - (ii) sends or delivers to, or causes to be taken or received by, any person any explosive substance, or <sup>Sending</sup> any other dangerous or noxious thing, <sup>explosives.</sup>
  - (iii) puts or lays at any place, or casts or throws at or upon, or otherwise applies to, any person any corrosive fluid, or any destructive or explosive substance; or <sup>Applying</sup> <sup>to person</sup> <sup>explosives.</sup>

Throwing  
explosives  
against  
vessel.

(b) places or throws in, into, upon, against or near any building, ship or vessel an explosive substance, with intent to do any bodily injury to any person, whether or not any explosion takes place and whether or not any bodily injury is effected;

Penalty.

is guilty of an indictable offence and liable, in cases within paragraph (a) of this section, to imprisonment for life, and in cases within paragraph (b) of this section to fourteen years' imprisonment. R.S., c. 146, s. 280.

Setting  
spring  
guns and  
man-traps.

**281.** Every one is guilty of an indictable offence and liable to five years' imprisonment who sets or places, or causes to be set or placed, any spring-gun, man-trap, or other engine calculated to destroy human life or inflict grievous bodily harm, with the intent that the same or whereby the same may destroy, or inflict grievous bodily harm upon, any trespasser or other person coming in contact therewith.

Permitting  
the same  
to be set.

2. Every one who knowingly and wilfully permits any such spring-gun, man-trap or other engine which has been set or placed by some other person, in any place which is in, or afterwards comes into, his possession or occupation, to continue so set or placed shall be deemed to have set or placed such gun, trap or engine with such intent as aforesaid.

Exception.

3. This section does not extend to any gin or trap usually set or placed with the intent of destroying vermin or noxious animals. R.S., c. 146, s. 281.

Penalty.

**282.** Every one is guilty of an indictable offence and liable to imprisonment for life who unlawfully,

Intent to  
injure  
traveller.

(a) with intent to injure or to endanger the safety of any person travelling or being upon any railway,

Stone on  
railway.

(i) puts or throws upon or across such railway any wood, stone or other matter or thing.

Removing  
sleeper  
or rail.

(ii) takes up, removes or displaces any rail, railway switch, sleeper or other matter or thing belonging to such railway, or injures or destroys any track, bridge or fence of such railway, or any portion thereof,

Diverting  
points, etc.

(iii) turns, moves or diverts any point or other machinery belonging to such railway,

Removing  
signal.

(iv) makes or shows, hides or removes any signal or light upon or near to such railway,

Otherwise.

(v) does or causes to be done any other matter or thing with such intent; or

Throwing  
anything  
at car,  
etc.

(b) throws, or causes to fall or strike at, against, into or upon any engine, tender, carriage or truck used and in motion upon any railway, any wood, stone or other matter or thing, with intent to injure or endanger the

safety of any person being in or upon such engine, tender, carriage or truck, or in or upon any other engine, tender, carriage or truck of any train of which such first mentioned engine, tender, carriage or truck forms part. R.S., c. 146, s. 282.

**283.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, by any unlawful act, or by any wilful omission or neglect of duty, endangers or causes to be endangered the safety of any person conveyed or being in or upon a railway, or aids or assists therein. R.S., c. 146, s. 283.

Wantonly endangering safety of persons on railways.

**284.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, by any unlawful act, or by doing negligently or omitting to do any act which it is his duty to do, causes grievous bodily injury to any other person. R.S., c. 146, s. 284.

Causing bodily injury.

**285.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, having the charge of any carriage or motor vehicle, automobile, or other vehicle, by wanton or furious driving, or racing or other wilful misconduct, or by wilful neglect, does or causes to be done any bodily harm to any person.

Injuring persons by furious driving.

2. Whenever, owing to the presence of a motor car on the highway, an accident has occurred to any person or to any horse or vehicle in charge of any person, any person driving the motor car shall be liable on summary conviction to a fine not exceeding fifty dollars and costs or to imprisonment for a term not exceeding thirty days if he fails to stop his car and, with intent to escape liability either civil or criminal, drives on without tendering assistance and giving his name and address.

Liability of driver of car for failure to stop after accident happens.

3. Every one who takes or causes to be taken from a garage, stable, stand, or other building or place, any automobile or motor car with intent to operate or drive or use or cause or permit the same to be operated or driven or used without the consent of the owner shall be liable, on summary conviction, to a fine not exceeding five hundred dollars and costs or to imprisonment for any term not exceeding twelve months or to both fine and imprisonment.

Unlawfully taking motor car.

4. Every one who while intoxicated or under the influence of narcotics drives any motor vehicle or automobile or has the care or control of a motor vehicle or automobile whether it is in motion or not shall be guilty of an offence and liable upon summary conviction for the first offence to a term of imprisonment not exceeding thirty days and not less than seven days, for a second offence to a term of

Driving motor car while intoxicated.

imprisonment not exceeding three months and not less than one month, and for each subsequent offence to a term of imprisonment not exceeding one year and not less than three months. R.S., c. 146, s. 285; 1910, c. 11, s. 1; 1910, c. 13, ss. 1 and 2; 1918, c. 16, s. 3; 1925, c. 38, s. 5.

Penalty.

**286.** Every one is guilty of an indictable offence and liable to seven years' imprisonment

Impeding  
ship-  
wrecked  
person.

(a) who prevents or impedes, or endeavours to prevent or impede, any shipwrecked person in his endeavour to save his life; or

Impeding  
person  
assisting.

(b) who without reasonable cause prevents or impedes, or endeavours to prevent or impede, any person in his endeavour to save the life of any shipwrecked person. R.S., c. 146, s. 286.

Penalty.

**287.** Every one is guilty of an offence and liable, on summary conviction, to a fine or imprisonment with or without hard labour, or both, who

Hole in  
ice un-  
guarded.

(a) cuts or makes, or causes to be cut or made, any hole, opening, aperture or place, of sufficient size or area to endanger human life, through the ice on any navigable or other water open to or frequented by the public, and leaves such hole, opening, aperture or place, while it is in a state dangerous to human life, whether the same is frozen over or not, uninclosed by bushes or trees or unguarded by a guard or fence, of sufficient height and strength to prevent any person from accidentally riding, driving, walking, skating or falling therein; or

Unused  
mine un-  
guarded.

(b) being the owner, manager or superintendent of any abandoned or unused mine or quarry or property upon or in which there is any excavation of a sufficient area and depth to endanger human life, leaves the same unguarded and uninclosed by a guard or fence of sufficient height and strength to prevent any person from accidentally riding, driving, walking or falling therein; or

Neglect  
to make  
inclosure.

(c) omits within five days after conviction of any such offence to so guard or inclose the same or to construct around or over such exposed opening or excavation a guard or fence of such height and strength.

Neglect  
to guard  
hole.

2. Every one whose duty it is to guard such hole, opening, aperture or place is guilty of manslaughter if any person loses his life by accidentally falling therein while the same is so unguarded or uninclosed. R.S., c. 146, s. 287.

Sending  
unsea-  
worthy  
ships to  
sea.

**288.** Every one is guilty of an indictable offence and liable to five years' imprisonment who sends, or attempts to send, or is a party to sending, a ship registered in Canada to sea, or on a voyage on any of the inland waters of

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Canada, or on a voyage from any port or place on the inland waters of Canada to any port or place on the inland waters of the United States, or on a voyage from any port or place on the inland waters of the United States to any port or place on the inland waters of Canada in such an unseaworthy state, by reason of overloading or underloading or improper loading, or by reason of being insufficiently manned, or from any other cause, that the life of any person is likely to be endangered thereby, unless he proves that he used all reasonable means to ensure her being sent to sea or on such voyage in a seaworthy state, or that her going to sea or on such voyage in such unseaworthy state was, under the circumstances, reasonable and justifiable. R.S., c. 146, s. 288.

**289.** Every one is guilty of an indictable offence and liable to five years' imprisonment who, being the master of a ship registered in Canada, knowingly takes such ship to sea, or on a voyage on any of the inland waters of Canada, or on a voyage from any port or place on the inland waters of Canada to any port or place on the inland waters of the United States, or on a voyage from any port or place in the United States to any port or place on the inland waters of Canada, in such an unseaworthy state, by reason of overloading or underloading or improper loading, or by reason of being insufficiently manned, or from any other cause, that the life of any person is likely to be endangered thereby, unless he proves that her going to sea or on such voyage in such unseaworthy state was, under the circumstances, reasonable and justifiable. R.S., c. 146, s. 289.

Taking  
same to  
sea.

#### *Assaults.*

**290.** An assault is the act of intentionally applying force to the person of another, directly or indirectly, or attempting or threatening, by any act or gesture, to apply force to the person of another, if the person making the threat has, or causes the other to believe, upon reasonable grounds, that he has present ability to effect his purpose, and in either case, without the consent of the other or with such consent, if it is obtained by fraud. R.S., c. 146, s. 290.

Definition.

**291.** Every one who commits a common assault is guilty of an indictable offence and liable, if convicted upon an indictment, to one year's imprisonment, or to a fine not exceeding one hundred dollars, and on summary conviction to a fine not exceeding twenty dollars and costs, or to two months' imprisonment, with or without hard labour. R.S., c. 146, s. 291.

Common  
assaults.

**Offence.** **292.** Every one is guilty of an indictable offence and  
**Penalty.** liable to two years' imprisonment, and to be whipped, who  
**Indecent assault on female.** (a) indecently assaults any female; or  
 (b) does anything to any female by her consent which  
 but for such consent would be an indecent assault,  
**Consent procured by fraud.** if such consent is obtained by false and fraudulent  
 representations as to the nature and quality of the  
 act; or  
**Assaults on females.** (c) assaults and beats his wife or any other female and  
 thereby occasions her actual bodily harm. R.S., c. 146,  
 s. 292; 1909, c. 9, s. 2.

**Indecent assault on males.** **293.** Every one is guilty of an indictable offence and  
 liable to ten years' imprisonment, and to be whipped, who  
 assaults any person with intent to commit sodomy or who,  
 being a male, indecently assaults any other male person.  
 R.S., c. 146, s. 293.

**Consent of child under fourteen no defence.** **294.** It is no defence to a charge or indictment for any  
 indecent assault on a young person under the age of four-  
 teen years to prove that he or she consented to the act of  
 indecency. R.S., c. 146, s. 294.

**Assault with bodily harm.** **295.** Every one who commits any assault which occa-  
 sions actual bodily harm is guilty of an indictable offence  
 and liable to three years' imprisonment. R.S., c. 146, s. 295.

**Aggravated assault.** **296.** Every one is guilty of an indictable offence and  
 liable to two years' imprisonment who  
 (a) assaults any person with intent to commit any in-  
 dictable offence; or  
 (b) assaults any public or peace officer engaged in the  
 execution of his duty, or any person acting in aid of  
 such officer; or  
 (c) assaults any person with intent to resist or prevent  
 the lawful apprehension or detainer of himself, or of  
 any other person, for any offence; or  
 (d) assaults any person in the lawful execution of any  
 process against any lands or goods, or in making any  
 lawful distress or seizure, or with intent to rescue any  
 goods taken under such process, distress or seizure; or  
 (e) on any day whereon any poll for an election, parlia-  
 mentary or municipal, is being proceeded with, within  
 the distance of two miles from the place where such  
 poll is taken or held, assaults or beats any person. R.S.,  
 c. 146, s. 296.

**Kid-napping.** **297.** Every one is guilty of an indictable offence and  
 liable to twenty-five years' imprisonment who, without law-  
 ful authority,

- (a) kidnaps any other person with intent
- (i) to cause such other person to be secretly confined or imprisoned in Canada against his will, or Intent.  
To im-  
prison.
  - (ii) to cause such other person to be unlawfully sent or transported out of Canada against his will, or To be  
trans-  
ported.
  - (iii) to cause such other person to be sold or captured as a slave, or in any way held to service against his will; or To be  
enslaved.
- (b) forcibly seizes or confines or imprisons any other person within Canada. Forceful  
confinement.

2. Upon the trial of any offence under this section the non-resistance of a person so unlawfully kidnapped or confined shall not be a defence unless it appears that it was not caused by threats, duress or force, or exhibition of force. R.S., c. 146, s. 297; 1909, c. 9, s. 2. Non-re-  
sistance.

### *Unlawful Carnal Knowledge.*

**298.** Rape is the act of a man having carnal knowledge of a woman who is not his wife without her consent, or with consent which has been extorted by threats or fear of bodily harm, or obtained by personating the woman's husband, or by false and fraudulent representations as to the nature and quality of the act. Rape  
defined.

2. No one under the age of fourteen years can commit this offence. R.S., c. 146, s. 298. Age.

**299.** Every one who commits rape is guilty of an indictable offence and liable to suffer death or to imprisonment for life, and to be whipped. R.S., c. 146, s. 299; 1921, c. 25, s. 4. Punish-  
ment for  
rape.

**300.** Every one is guilty of an indictable offence, and liable to seven years' imprisonment and to be whipped, who attempts to commit rape. 1920, c. 43, s. 7. Penalty of  
whipping  
added.

**301.** Every one is guilty of an indictable offence and liable to imprisonment for life, and to be whipped, who carnally knows any girl under the age of fourteen years, not being his wife, whether he believes her to be of or above that age or not. Carnally  
knowing  
girl under  
fourteen  
years.

2. Every one is guilty of an indictable offence and liable to imprisonment for five years who carnally knows any girl of previous chaste character under the age of sixteen and above the age of fourteen years, not being his wife, and whether he believes her to be above the age of sixteen years or not; but no person accused of any offence under this subsection shall be convicted upon the evidence of one witness, unless such witness is corroborated in some material particular by evidence implicating the accused. Carnally  
knowing  
girl be-  
tween 14  
and 16.

Instructions  
to jury.

3. On the trial of any offence against subsection two of this section, the trial judge may instruct the jury that if in their view the evidence does not show that the accused is wholly or chiefly to blame for the commission of said offence, they may find a verdict of acquittal. R.S., c. 146, s. 301; 1920, c. 43, ss. 8 and 17.

Attempt.

**302.** Every one who attempts to have unlawful carnal knowledge of any girl under the age of fourteen years is guilty of an indictable offence and liable to two years' imprisonment, and to be whipped. R.S., c. 146, s. 302.

### *Abortion.*

Attempt to  
procure.

**303.** Every one is guilty of an indictable offence and liable to imprisonment for life who, with intent to procure the miscarriage of any woman, whether she is or is not with child, unlawfully administers to her or causes to be taken by her any drug or other noxious thing, or unlawfully uses on her any instrument or other means whatsoever with the like intent. R.S., c. 146, s. 303.

Woman  
attempting  
to procure  
her own  
miscar-  
riage.

**304.** Every woman is guilty of an indictable offence and liable to seven years' imprisonment who, whether with child or not, unlawfully administers to herself or permits to be administered to her any drug or other noxious thing, or unlawfully uses on herself or permits to be used on her any instrument or other means whatsoever with intent to procure miscarriage. R.S., c. 146, s. 304.

Supplying  
drug to  
procure.

**305.** Every one is guilty of an indictable offence and liable to two years' imprisonment who unlawfully supplies or procures any drug or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she is or is not with child. R.S., c. 146, s. 305.

Killing  
unborn  
child.

**306.** Every one is guilty of an indictable offence and liable to imprisonment for life who causes the death of any child which has not become a human being, in such a manner that he would have been guilty of murder if such child had been born.

Saving.

2. No one is guilty of any offence who, by means which he in good faith considers necessary for the preservation of the life of the mother of the child, causes the death of any such child before or during its birth. R.S., c. 146, s. 306.

*Venereal Diseases.*

**307.** Any person who is suffering from venereal disease in a communicable form, who knowingly or by culpable negligence communicates such venereal disease to any other person shall be guilty of an offence, and shall be liable upon summary conviction to a fine not exceeding five hundred dollars or to imprisonment for any term not exceeding six months, or to both fine and imprisonment:

Communi-  
cating  
venereal  
disease.

Provided that a person shall not be convicted under this section if he proves that he had reasonable grounds to believe that he was free from venereal disease in a communicable form at the time the alleged offence was committed:

Provided, also, that no person shall be convicted of any offence under this section upon the evidence of one witness, unless the evidence of such witness be corroborated in some material particular by evidence implicating the accused.

2. For the purposes of this section "venereal disease" means syphilis, gonorrhea, or soft chancre. 1919, c. 46, s. 8.

*Offences Against Conjugal Rights.*

**308.** Bigamy is

Bigamy  
defined.

- (a) the act of a person who, being married, goes through a form of marriage with any other person in any part of the world; or
- (b) the act of a person who goes through a form of marriage in any part of the world with any person whom he or she knows to be married; or
- (c) the act of a person who goes through a form of marriage with more than one person simultaneously, or on the same day.

2. The fact that the parties would, if unmarried, have been incompetent to contract marriage shall be no defence upon a prosecution for bigamy.

Incompe-  
tency no  
defence.

3. No one commits bigamy by going through a form of marriage

Excuses.

- (a) if he or she in good faith and on reasonable grounds believes his wife or her husband to be dead; or
- (b) if his wife or her husband has been continually absent for seven years then last past and he or she is not proved to have known that his wife or her husband was alive at any time during those seven years; or
- (c) if he or she has been divorced from the bond of the first marriage; or
- (d) if the former marriage has been declared void by a court of competent jurisdiction.

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Bigamous  
marriages  
outside of  
Canada.

4. No person shall be liable to be convicted of bigamy in respect of having gone through a form of marriage in a place not in Canada, unless such person, being a British subject resident in Canada, leaves Canada with intent to go through such form of marriage.

Effect of  
form.

5. Every form of marriage shall for the purpose of this section be valid, notwithstanding any act or default of the person charged with bigamy, if it is otherwise a valid form. R.S., c. 146, s. 307.

Punish-  
ment of  
bigamy.  
Second  
offences.  
Feigned  
marriages.

**309.** Every one is guilty of an indictable offence and liable to seven years' imprisonment for the first offence, and fourteen years for a second or subsequent offence, who commits bigamy.

2. Everyone is guilty of an indictable offence and liable to seven years' imprisonment who procures a feigned or pretended marriage between himself and any woman, or who knowingly aids and assists in procuring such feigned or pretended marriage. R.S., c. 146, ss. 308 and 309.

Polygamy.  
Penalty.

**310.** Every one is guilty of an indictable offence and liable to imprisonment for five years, and to a fine of five hundred dollars

Practising  
or con-  
tracting.

(a) who practises, or, by the rites, ceremonies, forms, rules, or customs of any denomination, sect or society, religious or secular, or by any form of contract, or by mere mutual consent, or by any other method whatsoever, and whether in a manner recognized by law as a binding form of marriage or not, agrees or consents to practise or enter into

Polygamy.  
Conjugal  
union.

(i) any form of polygamy,

(ii) any kind of conjugal union with more than one person at the same time, or

Spiritual  
marriages.

(iii) what among the persons commonly called Mor-  
mons is known as spiritual or plural marriage; or

Cohabita-  
tion in  
conjugal  
union.

(b) who lives, cohabits, or agrees or consents to live or cohabit in any kind of conjugal union with a person who is married to another or with a person who lives or cohabits with another or others in any kind of conjugal union; or

Celebrat-  
ing rite.

(c) celebrates, is a party to, or assists in any rite or ceremony which purports to make binding or to sanction any of the sexual relationships mentioned in paragraph (a) of this section; or

Assisting  
in compli-  
ance.

(d) procures, enforces, enables, is a party to, or assists in the compliance with, or carrying out of, any form, rule or custom which so purports; or

Procuring  
contract.

(e) procures, enforces, enables, is a party to, or assists in the execution of, any form of contract which so purports, or the giving of any consent which so purports. R.S., c. 146, s. 310.

*Unlawful Solemnization of Marriage.*

**311.** Every one is guilty of an indictable offence and Penalty.  
liable to a fine, or to two years' imprisonment, or to both,  
who,

(a) without lawful authority, the proof of which shall Without authority.  
lie on him, solemnizes or pretends to solemnize any  
marriage; or

(b) procures any person to solemnize any marriage Procuring unlawful marriage.  
knowing that such person is not lawfully authorized  
to solemnize such marriage, or knowingly aids or abets  
such person in performing such ceremony. R.S.,  
c. 146, s. 311.

**312.** Every one is guilty of an indictable offence and Marriage contrary to law.  
liable to a fine, or to one year's imprisonment, who, being  
lawfully authorized, knowingly and wilfully solemnizes  
any marriage in violation of the laws of the province in  
which the marriage is solemnized. R.S., c. 146, s. 312.

*Abduction.*

**313.** Every one is guilty of an indictable offence and Abduction of a woman.  
liable to ten years' imprisonment who, against her will,  
takes away or detains any woman of any age and whether  
married or not, with intent to marry or carnally know  
such woman or to cause her to be married or carnally  
known by any other person. 1909, c. 9, s. 2.

**314.** Every one is guilty of an indictable offence and Abduction of heiress.  
liable to fourteen years' imprisonment, who, with intent  
to marry or carnally know any woman, or with intent to  
cause any woman to be married or carnally known by any  
other person, such woman having any interest, legal or  
equitable, present or future, absolute, conditional or con-  
tingent, in any real or personal estate, or being a presump-  
tive heiress or co-heiress, or presumptive next of kin, to  
any one having such an interest,

(a) from motives of lucre takes away or detains such Against her will.  
woman against her will, whatever the age of such  
woman;

(b) fraudulently allures, takes away or detains such Against will of parent or guardian.  
woman out of the possession and against the will of  
her father or mother or other person having the law-  
ful care or charge of her, such woman being under the  
age of twenty-one years.

2. Every one convicted of any offence defined in this Effect of conviction on property.  
section is incapable of taking any estate or interest, legal  
or equitable, in any real or personal property of such  
woman, or in which she has any interest, or which comes  
to her as such heiress, co-heiress or next of kin; and if any

such marriage takes place such property shall, upon such conviction, be settled in such manner as any court of competent jurisdiction, upon any information at the instance of the Attorney General, appoints. R.S., c. 146, s. 314; 1909, c. 9, s. 2.

Abduction  
of girl  
under  
sixteen.

**315.** Every one is guilty of an indictable offence and liable to five years' imprisonment who unlawfully takes or causes to be taken any unmarried girl, who is under the age of sixteen years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her.

Consent  
immaterial.

2. It is immaterial whether the girl is taken with her own consent or at her own suggestion or not.

Belief of  
offender.

3. It is immaterial whether or not the offender believed the girl to be of or above the age of sixteen. R.S., c. 146, s. 315.

Penalty.

**316.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, with intent to deprive any parent or guardian of any child under the age of fourteen years, of the possession of such child, or with intent to steal any article about or on the person of such child, unlawfully,

Child.  
Intent.

Abduction.  
Harbour-  
ing  
abducted  
child.

(a) takes or entices away or detains any child; or  
(b) receives or harbours any such child, knowing it to have been unlawfully taken, enticed away or detained with intent aforesaid.

Possession  
in good  
faith.

2. Nothing in this section shall extend to any one who gets possession of any child, claiming in good faith a right to the possession of the child. R.S., c. 146, s. 316.

### *Defamatory Libel.*

Definition.

**317.** A defamatory libel is matter published, without legal justification or excuse, likely to injure the reputation of any person by exposing him to hatred, contempt or ridicule, or designed to insult the person of or concerning whom it is published.

Manner of  
expressing.

2. Such matter may be expressed either in words legibly marked upon any substance whatever, or by any object signifying such matter otherwise than by words, and may be expressed either directly or by insinuation or irony. R.S., c. 146, s. 317.

Publishing  
defined.

**318.** Publishing a libel is exhibiting it in public, or causing it to be read or seen, or showing or delivering it, or causing it to be shown or delivered, with a view to its being read or seen by the person defamed or by any other person. R.S., c. 146, s. 318.



**319.** No one commits an offence by publishing defamatory matter on the invitation or challenge of the person defamed thereby, nor if it is necessary to publish such defamatory matter in order to refute some other defamatory statement published by that person concerning the alleged offender, if such defamatory matter is believed to be true, and is relevant to the invitation, challenge or required refutation, and the publishing does not in manner or extent exceed what is reasonably sufficient for the occasion. R.S., c. 146, s. 319.

Publishing upon invitation.

**320.** No one commits an offence by publishing any defamatory matter, in any proceeding held before or under the authority of any court exercising judicial authority, or in any inquiry made under the authority of any statute or by order of His Majesty, or of any of the departments of government, Dominion or provincial. R.S., c. 146, s. 320.

Publishing proceedings of courts of justice.

**321.** No one commits an offence by publishing to either the Senate, or House of Commons, or to any Legislative Council, Legislative Assembly or House of Assembly, defamatory matter contained in a petition to the Senate, or House of Commons, or to any such Council or Assembly, or by publishing by order or under the authority of the Senate, or House of Commons, or of any such Council or Assembly, any paper containing defamatory matter or by publishing, in good faith and without ill-will to the person defamed, any extract from or abstract of any such paper. R.S., c. 146, s. 321.

Parliamentary papers.

Good faith.

**322.** No one commits an offence by publishing in good faith, for the information of the public, a fair report of the proceedings of the Senate or House of Commons, or any committee thereof, or of any council or assembly aforesaid, or any committee thereof, or of the public proceedings preliminary or final heard before any court exercising judicial authority, nor by publishing, in good faith, any fair comment upon any such proceedings.

Fair reports of proceedings of parliament and courts.

2. Nothing in this section shall make it lawful to publish a report of any evidence taken or offered in any proceeding had before the Senate or the House of Commons, or any committee of the Senate or the House of Commons, upon any petition or bill relating to any matter of marriage or divorce, if the report is published without authority from or leave of the House in which the proceeding was had or contrary to any rule, order or practice of that House. R.S., c. 146, s. 322; 1923, c. 11, s. 1.

Exception as to evidence in matters of marriage or divorce.

Fair re-  
ports of  
public  
meetings.

**323.** No one commits an offence by publishing in good faith, in a newspaper, a fair report of the proceedings of any public meeting if the meeting is lawfully convened for a lawful purpose and open to the public, and if such report is fair and accurate, and if the publication of the matter complained of is for the public benefit, and if the defendant does not refuse to insert in a conspicuous place in the newspaper in which the report appeared a reasonable letter or document of explanation or contradiction by or on behalf of the prosecutor. R.S., c. 146, s. 323.

Public  
benefit.

**324.** No one commits an offence by publishing any defamatory matter which he, on reasonable grounds, believes to be true, and which is relevant to any subject of public interest, the public discussion of which is for the public benefit. R.S., c. 146, s. 324.

Fair com-  
ments on  
public  
person.

**325.** No one commits an offence by publishing fair comments upon the public conduct of a person who takes part in public affairs.

Fair com-  
ments on  
literary or  
art pro-  
ductions.

2. No one commits an offence by publishing fair comments on any published book or other literary production, or on any composition or work of art or performance publicly exhibited, or on any other communication made to the public on any subject, if such comments are confined to criticism on such book or literary production, composition, work of art, performance or communication. R.S., c. 146, s. 325.

Publica-  
tion in  
good faith  
seeking  
redress.

**326.** No one commits an offence by publishing defamatory matter for the purpose, in good faith, of seeking remedy or redress for any private or public wrong or grievance from a person who has, or is reasonably believed by the person publishing to have, the right or to be under obligation to remedy or redress such wrong or grievance, if the defamatory matter is believed by the person publishing the same to be true, and is relevant to the remedy or redress sought, and such publishing does not in manner or extent exceed what is reasonably sufficient for the occasion. R.S., c. 146, s. 326.

Answer to  
inquiries.

**327.** No one commits an offence by publishing, in answer to inquiries made of him, defamatory matter relating to some subject as to which the person by whom, or on whose behalf, the inquiry is made has, or on reasonable grounds is believed by the person publishing to have, an interest in knowing the truth, if such matter is published for the purpose, in good faith, of giving information in respect thereof to that person, and if such defamatory matter is believed to be true, and is relevant to the in-  
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quiries

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quiries made, and also if such publishing does not in manner or extent exceed what is reasonably sufficient for the occasion. R.S., c. 146, s. 327. Condition.

**328.** No one commits an offence by publishing to another person defamatory matter for the purpose of giving information to that person with respect to some subject as to which he has, or is, on reasonable grounds, believed to have, such an interest in knowing the truth as to make the conduct of the person giving the information reasonable under the circumstances, if such defamatory matter is relevant to such subject, and is either true, or is made without ill-will to the person defamed, and in the belief, on reasonable grounds, that it is true. R.S., c. 146, s. 328. Giving information.  
Intent.  
Condition.

**329.** Every proprietor of any newspaper is presumed to be criminally responsible for defamatory matter inserted and published therein, but such presumption may be rebutted by proof that the particular defamatory matter was inserted in such newspaper without such proprietor's cognizance, and without negligence on his part. Proprietor of newspaper presumed responsible.

2. General authority given to the person actually inserting such defamatory matter to manage or conduct, as editor or otherwise, such newspaper, and to insert therein what he in his discretion thinks fit, shall not be negligence within this section unless it be proved that the proprietor, when originally giving such general authority, meant that it should extend to inserting and publishing defamatory matter, or continued such general authority knowing that it had exercised by inserting defamatory matter in any number or part of such newspaper. General authority to managers not negligence unless with intent.

3. No one is guilty of an offence by selling any number or part of such a newspaper, unless he knew either that such number or part contained defamatory matter, or that defamatory matter was habitually contained in such newspaper. R.S., c. 146, s. 329. Selling newspapers.

**330.** No one commits an offence by selling any book, magazine, pamphlet or other thing, whether forming part of any periodical or not, although the same contains defamatory matter, if, at the time of such sale, he did not know that such defamatory matter was contained in such book, magazine, pamphlet or other thing. Selling books containing defamatory libel.

2. The sale by a servant of any book, magazine, pamphlet or other thing, whether periodical or not, shall not make his employer criminally responsible in respect of defamatory matter contained therein unless it be proved that such employer authorized such sale knowing that such book, magazine, pamphlet or other thing contained defamatory matter, or, in case of a number or part of a periodical, that defamatory matter was habitually contained in such periodical. R.S., c. 146, s. 330. Sale by servant.  
Master exempt unless authorizing.

When  
truth a  
defence.

**331.** It shall be a defence to an indictment or information for a defamatory libel that the publishing of the defamatory matter in the manner in which it was published was for the public benefit at the time when it was published, and that the matter itself was true. R.S., c. 146, s. 331.

Extortion  
by libel.

**332.** Every one is guilty of an indictable offence and liable to two years' imprisonment, or to a fine not exceeding six hundred dollars, or to both, who publishes or threatens to publish, or offers to abstain from publishing, or offers to prevent the publishing of, a defamatory libel with intent to extort any money, or to induce any person to confer upon or procure for any person any appointment or office of profit or trust, or in consequence of any person having been refused any such money, appointment or office. R.S., c. 146, s. 332.

Punish-  
ment of  
libel  
known to  
be false.

**333.** Every one is guilty of an indictable offence and liable to two years' imprisonment, or to a fine not exceeding four hundred dollars, or to both, who publishes any defamatory libel knowing the same to be false. R.S., c. 146, s. 333.

Punish-  
ment of  
defama-  
tory libel.

**334.** Every one is guilty of an indictable offence and liable to one year's imprisonment, or to a fine not exceeding two hundred dollars, or to both, who publishes any defamatory libel. R.S., c. 146, s. 334.

## PART VII.

### OFFENCES AGAINST RIGHTS OF PROPERTY AND RIGHTS ARISING OUT OF CONTRACTS, AND OFFENCES CONNECTED WITH TRADE.

#### *Interpretation.*

Definitions.

**335.** In this Part, unless the context otherwise requires,

"Act."

(a) "act," for the purposes of the sections relating to offences connected with trade and breaches of contract, includes a default, breach or omission;

"Admiralty."

(b) "Admiralty" means the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral;

"Agent."

(c) "agent" means any person employed by or acting for another, and includes a person serving under the Crown or under any municipal or other corporation;

"Break."

(d) "break" means to break any part, internal or external, of a building, or to open by any means whatever, including lifting, in the case of things kept in their places by their own weight, any door, window, shutter

shutter, cellar-flap or other thing intended to cover openings to a building, or to give passage from one part of it to another;

- (e) "consideration" includes valuable consideration of any kind; "Consideration."
- (f) "covering" includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame or wrapper; and "label" includes any band or ticket; "Covering."  
"Label."
- (g) "dwelling-house" means a permanent building, the whole or any part of which is kept by the owner or occupier for the residence therein of himself, his family or servants, or any of them, although it may at intervals be unoccupied; "Dwelling-house."
- (h) "document" means any paper, parchment or other material used for writing or printing, marked with matter capable of being read, but does not include trade-marks on articles of commerce, or inscriptions on stone or metal or other like material; "Document."
- (i) "every one," "vendor," "purchaser," "merchant," "agent" or "person," for the purposes of the sections relating to trading stamps, includes any partnership, or company, or body corporate; "Every one," etc.
- (j) "exchequer bill" includes exchequer bonds, notes, debentures and other securities issued under the authority of the Parliament of Canada, or under the authority of the legislature of any province forming part of Canada, whether before or after such province so became a part of Canada; "Exchequer bill."
- (k) "exchequer bill paper" means any paper provided by the proper authority for the purpose of being used as exchequer bills, exchequer bonds, notes, debentures or other securities issued under the authority of the Parliament of Canada, or under the authority of the legislature of any province forming part of Canada, whether before or after such province became a part of Canada; "Exchequer bill paper."
- (l) "false document" means "False document."
  - (i) a document, the whole or some material part of which purports to be made by or on behalf of any person who did not make or authorize the making thereof, or which, though made by, or by the authority of, the person who purports to make it, is falsely dated as to time or place of making, where either is material, or
  - (ii) a document, the whole or some material part of which purports to be made by or on behalf of some person who did not in fact exist, or
  - (iii) a document which is made in the name of an existing person, either by that person or by his authority,

authority, with the fraudulent intention that the document should pass as being made by some person, real or fictitious, other than the person who makes or authorizes it;

"False name or initials."

- (m) "false name or initials" means, as applied to any goods, any name or initials of a person which
- (i) are not a trade-mark, or part of a trade-mark,
  - (ii) are identical with, or a colourable imitation of, the name or initials of a person carrying on business in connection with goods of the same description, and not having authorized the use of such name or initials,
  - (iii) are either those of a fictitious person or of some person not *bona fide* carrying on business in connection with such goods;

"False trade description."

- (n) "false trade description" means a trade description which is false in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement or otherwise, where that alteration makes the description false in a material respect; and the fact that a trade description is a trade-mark, or part of a trade-mark, shall not prevent such trade description being a false trade description within the meaning of this Part;

"Goods."

- (o) "goods," for the purposes of the sections relating to forgery of trade-marks and fraudulent marking of merchandise, means anything which is merchandise or the subject of trade or manufacture;

"Name."  
"Person,"  
etc.

- (p) "name" includes any abbreviation of a name;  
(q) "person," "manufacturer," "dealer" or "trader" and "proprietor," for the purposes of the sections relating to forgery of trade-marks and fraudulent marking of merchandise, include any body of persons, corporate or not corporate;

"Principal."  
"Revenue paper."

- (r) "principal" includes an employer;  
(s) "revenue paper" means any paper provided by the proper authority for the purpose of being used for stamps, licenses or permits, or for any other purpose connected with the public revenue;

"Seaman."

- (t) "seaman" means every person, not being a commissioned, warrant or subordinate officer, who is in or belongs to His Majesty's navy, and is borne on the books of any one of His Majesty's ships in commission, and every person, not being an officer as aforesaid, who, being borne on the books of any hired vessels in His Majesty's service, is by virtue of any Act of Parliament of the United Kingdom for the time being in force for the discipline of the navy, subject to the provisions of such Act;

- (u) "seaman's property" means any clothes, slops, medals, necessities or articles usually deemed to be necessities for sailors on board ship, which belong to any seaman; "Seaman's property."
- (v) "trade mark" means a trade mark or industrial design registered in accordance with the Trade Mark and Design Act, and the registration whereof is in force under the provisions of the said Act, and includes any trade mark which, either with or without registration, is protected by law in the United Kingdom or in any British possession or foreign state to which the provisions of section ninety-one of the Act of the United Kingdom known as the *Patents and Designs Act 1907*, are, in accordance with the provisions of the said Act, for the time being applicable; "Trade mark."
- (w) "trade description" means any description, statement or other indication, direct or indirect, "Trade description."
- (i) as to the number, quantity, measure, gauge or weight of any goods,
- (ii) as to the place or country in which any goods are made or produced,
- (iii) as to the mode of manufacturing or producing any goods,
- (iv) as to the material of which any goods are composed,
- (v) as to any goods being the subject of an existing patent, privilege or copyright;
- (x) "trading stamps" includes, besides trading stamps commonly so-called, any form of cash receipt, receipt, coupon, premium ticket or other device, designed or intended to be given to the purchaser of goods by the vendor thereof or his employee or agent, and to represent a discount on the price of such goods or a premium to the purchaser thereof, which is redeemable either "Trading stamps."
- (i) by any person other than the vendor, or the person from whom he purchased the goods, or the manufacturer of the goods, or
- (ii) by the vendor, or the person from whom he purchased the goods, or the manufacturer of the goods, in cash or goods not his property, or not his exclusive property, or
- (iii) by the vendor elsewhere than in the premises where such goods are purchased;
- or which does not show upon its face the place of its delivery and the merchantable value thereof, or is not redeemable at any time;
- (y) "watch," for the purposes of the next succeeding section, means all that portion of a watch which is not the watch case. "Watch."

An offer  
not a  
trading  
stamp.

2. An offer, printed or marked by the manufacturer upon any wrapper, box or receptacle, in which goods are sold, of a premium or reward for the return of such wrapper, box or receptacle, to the manufacturer, is not a trading stamp within the meaning of this Part. R.S., c. 146, s. 335; 1908, c. 18, s. 5; 1909, c. 33, s. 2; 1922, c. 16, s. 3.

Words or  
marks on  
watch  
cases.

**336.** Where a watch case has thereon any words or marks which constitute, or are by common repute considered as constituting, a description of the country in which the watch was made, and the watch bears no such description, those words or marks shall *prima facie* be deemed to be a description of that country within the meaning of this Part, and the provisions of this Part with respect to goods to which a false description has been applied, and with respect to selling or exposing, or having in possession, for sale, or any purpose of trade or manufacture, goods with a false trade description, shall apply accordingly. R.S., c. 146, s. 336.

Trade  
description.

**337.** The use of any figure, word or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the matters hereinbefore referred to in the interpretation of the expression "trade description," is a trade description within the meaning of this Part. R.S., c. 146, s. 337.

False  
document.

**338.** To constitute a false document it is not necessary that the fraudulent intention should appear on the face of the document, but it may be proved by external evidence. R.S., c. 146, s. 338.

Outbuild-  
ing when  
to be part  
of dwell-  
ing-house.

**339.** A building occupied with, and within the same curtilage with, any dwelling-house shall be deemed to be part of the said dwelling-house if there is between such building and dwelling-house a communication, either immediate or by means of a covered and inclosed passage, leading from the one to the other, but not otherwise. R.S., c. 146, s. 339.

Entrance  
into build-  
ing de-  
fined.

**340.** An entrance into a building is made as soon as any part of the body of the person making the entrance, or any part of any instrument used by him, is within the building.

Entering  
by artifice  
or break-  
ing.

2. Every one who obtains entrance into any building by any threat or artifice used for that purpose, or by collusion with any person in the building, or who enters any chimney or other aperture of the building permanently left open for any necessary purpose, shall be deemed to have broken and entered that building. R.S., c. 146, s. 340.



*Application of Part.*

**341.** The provisions of this Part respecting the application of a false trade description to goods extend to the application to goods of any such figures, words or marks, or arrangement or combination thereof, whether including a trade mark or not, as are reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are.

As to provisions relating to false trade descriptions.

2. The provisions of this Part respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description. R.S., c. 146, s. 341.

Idem.

**342.** The provisions of this Part with respect to false trade descriptions do not apply to any trade description which, on the twenty-second day of May, in the year one thousand eight hundred and eighty-eight, was lawfully and generally applied to goods of a particular class, or manufactured by a particular method, to indicate the particular class or method of manufacture of such goods: Provided that where such trade description includes the name of a place or country, and is calculated to mislead as to the place or country where the goods to which it is applied were actually made or produced, and the goods are not actually made or produced in that place or country, such provisions shall apply unless there is added to the trade description, immediately before or after the name of that place or country, in an equally conspicuous manner with that name, the name of the place or country in which the goods were actually made or produced, with a statement that they were made or produced there. R.S., c. 146, s. 342.

Proviso.

**343.** The provision of this Part with respect to trading stamps shall not apply to any trading stamp issued by a manufacturer or vendor before the first day of November, one thousand nine hundred and five. R.S., c. 146, s. 343.

As to trading stamps.

*Theft Defined.*

**344.** Every inanimate thing whatever which is the property of any person, and which either is or may be made movable, is capable of being stolen as soon as it becomes movable, although it is made movable in order to steal it: Provided that nothing growing out of the earth of a value

Things capable of being stolen.

Proviso.

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not

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not exceeding twenty-five cents shall, except in cases hereinafter provided, be deemed capable of being stolen. R.S., c. 146, s. 344.

Living  
creatures  
capable  
of being  
stolen.

**345.** All tame living creatures, whether tame by nature or wild by nature and tamed, shall be capable of being stolen: Provided that tame pigeons shall be capable of being stolen so long only as they are in a dovecot or on their owner's land.

Living  
creatures  
wild by  
nature.

2. All living creatures wild by nature, such as are not commonly found in a condition of natural liberty in Canada, shall, if kept in a state of confinement, be capable of being stolen, not only while they are so confined but after they have escaped from confinement.

Idem.

3. All other living creatures wild by nature shall, if kept in a state of confinement, be capable of being stolen so long as they remain in confinement or are being actually pursued after escaping therefrom, but no longer.

Idem.

4. A wild living creature shall be deemed to be in a state of confinement so long as it is in a den, cage or small inclosure, sty or tank, or is otherwise so situated that it cannot escape and that its owner can take possession of it at pleasure.

Idem.

5. Wild creatures in the enjoyment of their natural liberty shall not be capable of being stolen, nor shall the taking of their dead bodies by, or by the orders of, the person who killed them before they are reduced into actual possession by the owner of the land on which they died, be deemed to be theft.

Parts of  
living  
creatures.

6. Everything produced by or forming part of any living creature capable of being stolen, shall be capable of being stolen. R.S., c. 146, s. 345.

Oysters.

**346.** Oysters and oyster brood shall be capable of being stolen when in oyster beds, layings, or fisheries which are the property of any person, and sufficiently marked out or known as such property. R.S., c. 146, s. 346.

Theft  
defined.

**347.** Theft or stealing is the act of fraudulently and without colour of right taking, or fraudulently and without colour of right converting to the use of any person, anything capable of being stolen, with intent,

(a) to deprive the owner, or any person having any special property or interest therein, temporarily or absolutely of such thing or of such property or interest; or

(b) to pledge the same or deposit it as security; or

(c) to part with it under a condition as to its return which the person parting with it may be unable to perform; or

(d) to deal with it in such a manner that it cannot be restored in the condition in which it was at the time of such taking and conversion.

2. Theft is committed when the offender moves the thing or causes it to move or to be moved, or begins to cause it to become movable, with intent to steal it. Time when theft.

3. The taking or conversion may be fraudulent, although effected without secrecy or attempt at concealment. Secrecy.

4. It is immaterial whether the thing converted was taken for the purpose of conversion, or whether it was, at the time of the conversion, in the lawful possession of the person converting. R.S., c. 146, s. 347. Purpose of taking.

**348.** Every one who, being a bailee of anything capable of being stolen which is under lawful seizure by a peace officer or public officer in the execution of the duties of his office, and being obliged by law or agreement to produce and deliver the thing bailed to such officer or other person entitled thereto at a certain time and place, or upon demand, commits theft and steals the thing bailed if he does not so produce and deliver it; provided that a person accused under this section shall not be convicted if it be proved that the non-production and non-delivery of the thing bailed is not due to any wilful act or omission on the part of the person accused. 1925, c. 38, s. 6. Bailee not producing or delivering any article under lawful seizure by peace or public officer.

**349.** No factor or agent shall be guilty of theft by pledging or giving a lien on any goods or document of title to goods entrusted to him for the purpose of sale or otherwise, for any sum of money not greater than the amount due to him from his principal at the time of pledging or giving a lien on the same, together with the amount of any bill of exchange accepted by him for or on account of his principal. Agent pledging goods not theft when.

2. Any servant, contrary to the orders of his master, taking from his possession any food for the purpose of giving the same or having the same given to any horse or other animal belonging to or in the possession of his master, shall not, by reason thereof, be guilty of theft. R.S., c. 146, s. 348. Servant when not guilty of theft.

**350.** Every one commits theft and steals the creature killed who kills any living creature capable of being stolen with intent to steal the carcass, skin, plumage or any part of such creature. R.S., c. 146, s. 350. Killing animals.

**351.** Every one commits theft who maliciously or fraudulently abstracts, causes to be wasted or diverted, consumes or uses any electricity. R.S., c. 146, s. 351. Theft of electricity.

Theft by  
owner.

**352.** Theft may be committed by the owner of anything capable of being stolen against a person having a special property or interest therein, or by a person having a special property or interest therein against the owner thereof, or by a lessee against his reversioner, or by one of several joint owners, tenants in common, or partners of or in any such thing against the other persons interested therein, or by the directors, public officers or members of a public company, or body corporate, or of an unincorporated body or society associated together for any lawful purpose, against such public company or body corporate or unincorporated body or society. R.S., c. 146, s. 352.

By de-  
frauding  
partner in  
mining  
claim.

**353.** Every one commits theft who, with intent to defraud his co-partner, co-adventurer, joint tenant or tenant in common, in any mining claim, or in any share or interest in any such claim, secretly keeps back or conceals any gold or silver found in or upon or taken from such claim. R.S., c. 146, s. 353.

Husband  
and wife.

**354.** During cohabitation no husband or wife shall be convicted of stealing the property of the other, but a husband or wife shall be guilty of theft who, intending to desert or on deserting the other or while living apart from the other, fraudulently takes or converts anything which is by law the property of the other in a manner which in any other person would amount to theft.

Theft while  
living  
apart.

Theft.

2. Every one commits theft who, while a husband and wife are living together, knowingly

By  
assisting  
spouse.

(a) assists either of them in dealing with anything which is the property of the other in a manner which would amount to theft if they were not married; or

Receiving  
property  
of spouse.

(b) receives from either of them anything, the property of the other, obtained from that other by such dealing as aforesaid. R.S., c. 146, s. 354; 1913, c. 13, s. 15.

Theft by  
person re-  
quired to  
account.

**355.** Every one commits theft who, having received any money or valuable security or other thing whatsoever, on terms requiring him to account for or pay the same, or the proceeds thereof, or any part of such proceeds, to any other person, though not requiring him to deliver over in specie the identical money, valuable security or other thing received, fraudulently converts the same to his own use, or fraudulently omits to account for or pay the same or any part thereof, or to account for or pay such proceeds or any part thereof, which he was required to account for or pay as aforesaid.

Entry in  
account.

2. If it be part of the said terms that the money or other thing received, or the proceeds thereof, shall form an item in a debtor and creditor account between the person

son receiving the same and the person to whom he is to account for or pay the same, and that such last mentioned person shall rely only on the personal liability of the other as his debtor in respect thereof, the proper entry of such money or proceeds or any part thereof, in such account, shall be a sufficient accounting for the money or proceeds, or part thereof, so entered.

3. In such case no fraudulent conversion of the amount accounted for shall be deemed to have taken place. R.S., c. 146, s. 355. Effect.

**356.** Every one commits theft who, being entrusted, either solely or jointly with any other person, with any power of attorney for the sale, mortgage, pledge or other disposition of any property, real or personal, whether capable of being stolen or not, fraudulently sells, mortgages, pledges or otherwise disposes of the same or any part thereof, or fraudulently converts the proceeds of any sale, mortgage, pledge or other disposition of such property, or any part of such proceeds, to some purpose other than that for which he was entrusted with such power of attorney. R.S., c. 146, s. 356. Theft by persons holding power of attorney.

**357.** Every one commits theft who, having received, either solely or jointly with any other person, any money or valuable security or any power of attorney for the sale of any property, real or personal, with a direction that such money, or any part thereof, or the proceeds, or any part of the proceeds of such security, or such property, shall be applied to any purpose or paid to any person specified in such direction, in violation of good faith and contrary to such direction, fraudulently applies to any other purpose or pays to any other person such money or proceeds, or any part thereof. Misappropriation of proceeds held under direction.

2. When the person receiving such money, security or power of attorney, and the person from whom he receives it, deal with each other on such terms that all money paid to the former would, in the absence of any such direction, be properly treated as an item in a debtor and creditor account between them, this section shall not apply, unless such direction is in writing. R.S., c. 146, s. 357. Direction in writing when necessary.

### *Punishment of Theft.*

**358.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who steals anything by any act or omission amounting to theft under the provisions of the three last preceding sections. R.S., c. 146, s. 358. Penalty under last three sections.

Penalty.

**359.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who,

Theft by clerk.

(a) being a clerk or servant, or being employed for the purpose or in the capacity of a clerk or servant, steals anything belonging to or in the possession of his master or employer; or

Theft by cashier.

(b) being a cashier, assistant cashier, manager, officer, clerk or servant of any bank, or savings bank, steals any bond, obligation, bill obligatory or of credit, or other bill or note, or any security for money, or any money or effects of such bank, or lodged or deposited with any such bank; or

By government employee.

(c) being employed in the service of His Majesty, or of the Government of Canada or the government of any province of Canada, or of any municipality, steals anything in his possession by virtue of his employment. R.S., c. 146, s. 359.

By tenants and lodgers.

**360.** Every one who steals any chattel or fixture let to be used by him in or with any house or lodging is guilty of an indictable offence and liable to two years' imprisonment, and, if the value of such chattel or fixture exceeds the sum of twenty-five dollars, to four years' imprisonment. R.S., c. 146, s. 360.

Of testamentary instruments.

**361.** Every one is guilty of an indictable offence and liable to imprisonment for life who, either during the life of the testator or after his death, steals the whole or any part of a testamentary instrument, whether the same relates to real or personal property, or to both. R.S., c. 146, s. 361.

Of documents of title to lands or goods.

**362.** Every one is guilty of an indictable offence and liable to three years' imprisonment who steals the whole or any part of any document of title to lands or goods. R.S., c. 146, s. 362.

Of judicial or official documents.

**363.** Every one is guilty of an indictable offence and liable to three years' imprisonment who steals the whole or any part of any record, writ, return, affirmation, recognizance, *cognovit actionem*, bill, petition, answer, decree, panel, process, interrogatory, deposition, affidavit, rule, order or warrant of attorney, or of any original document whatsoever of or belonging to any court of justice, or relating to any cause or matter begun, depending or terminated in any such court, or of any original document in any wise relating to the business of any office or employment under His Majesty, and being or remaining in any office appertaining to any court of justice, or in any government or public office. R.S., c. 146, s. 363.

**364.** Every one is guilty of an indictable offence and Penalty. liable to imprisonment for life, or for any term not less than three years, who steals,

- (a) a post letter bag; or
- (b) a post letter from a post letter bag or from any post office, or from any officer or person employed in any business of the post office of Canada, or from a mail; or
- (c) a post letter containing any chattel, money or valuable security; or
- (d) any chattel, money or valuable security from or out of a post letter. Post letters, etc. R.S., c. 146, s. 364.

**365.** Every one is guilty of an indictable offence and Penalty. liable to imprisonment for any term not exceeding seven years, and not less than three years, who steals,

- (a) any post letter, other than post letters referred to Idem. in the last preceding section;
- (b) any parcel sent by parcel post, or any article contained in any such parcel; or
- (c) any key suited to any lock adopted for use by the Post Office Department, and in use on any Canada mail or mail bag. R.S., c. 146, s. 365.

**366.** Every one is guilty of an indictable offence and Stealing mailable matter. liable to five years' imprisonment who steals any printed vote or proceeding, newspaper, printed paper or book, packet or package of patterns or samples of merchandise or goods, or of seeds, cuttings, bulbs, roots, scions or grafts, or any post card or other mailable matter, other than a post letter, sent by mail. R.S., c. 146, s. 366.

**367.** Every one is guilty of an indictable offence and Election documents. liable to a fine in the discretion of the court, or to seven years' imprisonment, or to both fine and imprisonment, who steals, or unlawfully takes from any person having the lawful custody thereof, or from its lawful place of deposit for the time being, any writ of election, or any return to a writ of election, or any indenture, poll-book, voters' list, certificate, affidavit or report, ballot, or any document or paper made, prepared or drawn out according to or for the requirements of any law in regard to Dominion, provincial, municipal or civic elections. R.S., c. 146, s. 367.

**368.** Every one is guilty of an indictable offence and Railway tickets. liable to two years' imprisonment who steals any tramway, railway or steamboat ticket, or any order or receipt for a passage on any railway or in any steamboat or other vessel. R.S., c. 146, s. 368.

Cattle.

**369.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who steals any cattle. R.S., c. 146, s. 369.

Dogs,  
birds,  
beasts and  
other  
animals.

**370.** Every one who steals any dog, or any bird, beast or other animal ordinarily kept in a state of confinement or for any domestic purpose, or for any lawful purpose of profit or advantage, is, if the value of the property stolen exceeds twenty dollars, guilty of an indictable offence and liable to a penalty not exceeding fifty dollars over and above the value of the property stolen, or to two years' imprisonment, or to both, and if the value of the property stolen does not exceed twenty dollars, is guilty of an offence and liable upon summary conviction to a penalty not exceeding twenty dollars over and above such value, or to one month's imprisonment with hard labour.

Subse-  
quent con-  
viction.

2. Every one who, having been previously convicted of an offence under this section, is summarily convicted of another offence hereunder, is liable to three months' imprisonment with hard labour. R.S., c. 146, s. 370.

Oysters.

**371.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who steals oysters or oyster brood.

Using  
dredge or  
other  
means to  
take  
oysters.

2. Every one is guilty of an indictable offence and liable to three months' imprisonment who unlawfully and wilfully uses any dredge or net, instrument or engine whatsoever, for the purpose of taking oysters or oyster brood, within the limits of any oyster bed, laying or fishery the property of any other person, and sufficiently marked out or known as such, although none are actually taken, or unlawfully and wilfully with any net, instrument or engine, drags upon the ground of any such bed, laying or fishery.

Saving.

3. Nothing in this section applies to any person fishing for or catching any swimming fish within the limits of any oyster fishery with any net, instrument or engine adapted for taking swimming fish only. R.S., c. 146, s. 371.

Stealing  
things  
fixed to  
buildings  
or in  
land.

**372.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who steals any glass or woodwork belonging to any building whatsoever, or any lead, iron, copper, brass or other metal, or any utensil or fixture, whether made of metal or other material, or of both, respectively fixed in or to any building whatsoever, or any thing made of metal fixed in any land, being private property, for a fence to any dwelling-house, garden or area, or in any square or street, or in any place dedicated to public use or ornament, or in any burial ground. R.S., c. 146, s. 372.



**373.** Every one is guilty of an indictable offence and liable to two years' imprisonment who steals the whole or any part of any tree, sapling or shrub, or any under-wood, the thing stolen being of the value of twenty-five dollars, or of the value of five dollars if the thing stolen grows in any park, pleasure ground, garden, orchard or avenue, or in any ground adjoining or belonging to any dwelling-house.

Trees, etc.,  
of the  
value of  
twenty-five  
dollars.

Of the  
value of  
five  
dollars.

2. Every one who steals the whole or any part of any tree, sapling or shrub, or any underwood, the value of the article stolen, or the amount of the damage done, being twenty-five cents at the least, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty-five dollars over and above the value of the article stolen or the amount of the injury done.

Trees, etc.,  
of the  
value of  
twenty-five  
cents.

3. Every one who, having been convicted of any such offence, afterwards commits any such offence, is liable, on summary conviction, to three months' imprisonment with hard labour.

Second  
offence.

4. Every one who, having been twice convicted of any such offence, afterwards commits any such offence is guilty of an indictable offence and liable to five years' imprisonment. R.S., c. 146, ss. 373 and 374.

Subsequent  
offence.

**374.** Every one who steals any plant, root, fruit or vegetable production growing in any garden, orchard, pleasure ground, nursery ground, hot-house, green-house or conservatory is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars over and above the value of the article so stolen or the amount of the injury done, or to one month's imprisonment with or without hard labour.

Plants,  
etc.,  
growing in  
garden.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is guilty of an indictable offence and liable to three years' imprisonment. R.S., c. 146, s. 375.

Subse-  
quent  
offence.

**375.** Every one who steals any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or inclosed, not being a garden, orchard, pleasure ground or nursery ground, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding five dollars over and above the value of the article so stolen or the amount of the injury done, or to one month's imprisonment with hard labour.

Cultivated  
plants,  
etc.,  
growing  
elsewhere.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is liable to three months' imprisonment with hard labour. R.S., c. 146, s. 376.

Subse-  
quent  
offence.

Fences,  
stiles or  
gates.

**376.** Every one who steals any part of any live or dead fence, or any wooden post, pale, wire or rail set up or used as a fence, or any stile or gate, or any part thereof respectively, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars over and above the value of the article or articles so stolen or the amount of the injury done.

Subse-  
quent  
offence.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is liable, on summary conviction, to three months' imprisonment with hard labour. R.S., c. 146, s. 377.

Minimum  
sentence  
for stealing  
automobile.

**377.** Every one who is found guilty of stealing any automobile or motor car shall be sentenced to not less than one year's imprisonment. The provisions of subsection one of section one thousand and thirty-five shall not apply or extend to any such person, and sentence in any such case shall not be suspended without the concurrence of the Attorney General or his agent, or of the counsel acting for the Crown in the prosecution of the offender.

Penalty of  
seven years,  
or ten years  
for subse-  
quent  
offence.

2. The maximum penalty for stealing any automobile or motor car shall be the penalties prescribed by section three hundred and eighty-six of this Act. 1921, c. 25, s. 5; 1922, c. 16, s. 4.

Ores or  
minerals  
from  
mines.

**378.** Every one is guilty of an indictable offence and liable to two years' imprisonment who steals the ore of any metal, or any quartz, lapis calaminaris, manganese or mundic, or any piece of gold, silver or other metal, or any wad, black cawlk, or black lead, or any coal, or cannel coal, or any marble, stone or other mineral, from any mine, bed or vein thereof respectively.

Saving.

2. It is not an offence to take, for the purposes of exploration or scientific investigation, any specimen or specimens of any ore or mineral from any piece of ground uninclosed and not occupied or worked as a mine, quarry or digging. R.S., c. 146, s. 378.

Stealing  
from the  
person.

**379.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who steals any chattel, money or valuable security from the person of another. R.S., c. 146, s. 379.

Penalty.

**380.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who

Stealing in  
dwelling-  
house.

(a) steals in any dwelling-house any chattel, money or valuable security to the value in the whole of twenty-five dollars or more; or

With  
threats or  
menaces.

(b) steals any chattel, money or valuable security in any dwelling-house, and by any menace or threat puts any one therein in bodily fear. R.S., c. 146, s. 380.

**381.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, by means of any picklock, false key or other instrument steals anything from any receptacle for property locked or otherwise secured. R.S., c. 146, s. 381. Stealing by picklocks, etc.

**382.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who Penalty.

(a) steals any goods or merchandise in any vessel, barge or boat of any description whatsoever, in any haven or in any port of entry or discharge, or upon any navigable river or canal, or in any creek or basin belonging to or communicating with any such haven, port, river or canal; or Stealing from vessels.

(b) steals any goods or merchandise from any dock, wharf or quay adjacent to any such haven, port, river, canal, creek or basin. R.S., c. 146, s. 382. From wharfs.

**383.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who steals any wreck. R.S., c. 146, s. 383. Wreck.

**384.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who steals anything in or from any railway station or building, or from any engine, tender or vehicle of any kind on any railway. R.S., c. 146, s. 384. On railway.

**385.** Every one who steals, or unlawfully injures or removes, any image, bones, article or thing deposited in or near any Indian grave, is guilty of an offence and liable, on summary conviction, for a first offence, to a penalty not exceeding one hundred dollars or to three months' imprisonment, and for a subsequent offence to the same penalty and to six months' imprisonment with hard labour. R.S., c. 146, s. 385. Things deposited in Indian graves.

**386.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who steals anything for the stealing of which no punishment is otherwise provided or commits in respect thereof any offence for which he is liable to the same punishment as if he had stolen the same. Things not otherwise provided for.

2. The offender is liable to ten years' imprisonment if he has been previously convicted of theft. R.S., c. 146, s. 386. Subsequent offence.

**387.** If the value of anything stolen, or in respect of which any offence is committed for which the offender is liable to the same punishment as if he had stolen it, exceeds the sum of two hundred dollars the offender is liable to two Value of things stolen over \$200.

781

years'

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years' imprisonment, in addition to any punishment to which he is otherwise liable for such offence. R.S., c. 146, s. 387.

Goods in  
process of  
manufac-  
ture.

**388.** Every one is guilty of an indictable offence and liable to five years' imprisonment who steals, to the value of two dollars, any woollen, linen, hempen or cotton yarn, or any goods or articles of silk, woollen, linen, cotton, alpaca or mohair, or of any one or more of such materials mixed with each other or mixed with any other material, while laid, placed or exposed, during any stage, process or progress of manufacture, in any building, field or other place. R.S., c. 146, s. 388.

#### *Offences Resembling Theft.*

Fraudu-  
lently dis-  
posing of  
things en-  
trusted for  
manufac-  
ture.

**389.** Every one is guilty of an indictable offence and liable to two years' imprisonment, when the offence is not within the last preceding section, who, having been entrusted with, for the purpose of manufacture or for a special purpose connected with manufacture, or employed to make, any felt or hat, or to prepare or work up any woollen, linen, fustian, cotton, iron, leather, fur, hemp, flax or silk, or any such materials mixed with one another, or having been so entrusted, as aforesaid, with any other article, materials, fabric or thing, or with any tools or apparatus for manufacturing the same, fraudulently disposes of the same or any part thereof. R.S., c. 146, s. 389.

Criminal  
breach of  
trust.

**390.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, being a trustee of any property for the use or benefit, either in whole or in part, of some other person, or for any public or charitable purpose, with intent to defraud, and in violation of his trust, converts anything of which he is trustee to any use not authorized by the trust. R.S., c. 146, s. 390.

Public  
servants  
refusing to  
deliver up  
property  
lawfully  
demanded.

**391.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, being employed in the service of His Majesty or of the Government of Canada or the Government of any province of Canada, or of any municipality, and entrusted by virtue of such employment with the keeping, receipt, custody, management or control of any chattel, money, valuable security, book, paper, account or document, refuses or fails to deliver up the same to any one authorized to demand it. R.S., c. 146, s. 391.

Penalty.

**392.** Every one is guilty of an indictable offence and liable to three years' imprisonment who,

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(a)

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- (a) without the consent of the owner thereof fraudulently takes, holds, keeps in his possession, conceals, receives, appropriates, purchases or sells, or fraudulently causes or procures, or assists in the taking possession, concealing, appropriating, purchasing or selling of any cattle which are found astray; or Fraudulently taking cattle.
- (b) fraudulently refuses to deliver up any such cattle to the proper owner thereof, or to the person in charge thereof on behalf of such owner, or authorized by such owner to receive such cattle; or Fraudulently refusing to deliver up cattle.
- (c) without the consent of the owner, fraudulently, wholly or partially obliterates, or alters or defaces, or causes or procures to be obliterated, altered or defaced, any brand or mark on any cattle, or makes or causes or procures to be made any false or counterfeit brand or mark on any cattle. R.S., c. 146, s. 392. Defacing brand on cattle.

**393.** Every one who unlawfully and wilfully kills, wounds or takes any house-dove or pigeon, under such circumstances as do not amount to theft, is guilty of an offence and liable, upon complaint of the owner thereof, on summary conviction, to a penalty not exceeding ten dollars over and above the value of the bird. R.S., c. 146, s. 393. Unlawfully injuring pigeons.

**394.** Every one is guilty of an indictable offence and liable to three years' imprisonment who, Penalty.

- (a) without the consent of the owner thereof,
- (i) fraudulently takes, holds, keeps in his possession, collects, conceals, receives, appropriates, purchases, sells or causes or procures or assists to be taken possession of, collected, concealed, received, appropriated, purchased or sold, any timber, mast, spar, saw-log, shingle bolt or other description of lumber, boom chains, chains, lines or shackles, which is found adrift in, or cast ashore on the bank or beach of, any river, stream, or lake, in Canada, or in the harbours or any of the coast waters, including the whole of Queen Charlotte Sound, the whole of the Strait of Georgia or the Canadian waters of the Strait of Juan de Fuca, of British Columbia, or Taking possession, etc., of drift timber.
- (ii) wholly or partially defaces or adds or causes or procures to be defaced or added, any mark or number on any such timber, mast, spar, saw-log, shingle bolt, or other description of lumber, boom chains, chains, lines or shackles, or makes or causes or procures to be made, any false or counterfeit mark on any such timber, mast, spar, saw-log, shingle bolt, or other description of lumber, boom chains, chains, lines or shackles; or Defacing marks.

Refusing  
to deliver  
to owner.

(b) refuses to deliver up to the proper owner thereof, or to the person in charge thereof, on behalf of such owner, or authorized by such owner to receive the same, any such timber, mast, spar, saw-log, shingle bolt, or other description of lumber, boom chains, chains, lines or shackles. 1912, c. 18, s. 1; 1919, c. 46, s. 10.

Possessing  
trees, etc.,  
without  
being able  
to account  
therefor.

**395.** Every one who, having in his possession, or on his premises with his knowledge, the whole or any part of any tree, sapling or shrub, or any underwood, or any part of any live or dead fence, or any post, pale, wire, rail, stile or gate, or any part thereof, of the value of twenty-five cents at the least, is taken or summoned before a justice of the peace, and does not satisfy such justice that he came lawfully by the same, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding ten dollars over and above the value of the article so in his possession or on his premises. R.S., c. 146, s. 395.

Destroying  
documents  
of title.

**396.** Every one who destroys, cancels, conceals or obliterates any document of title to goods or lands, or any valuable security, testamentary instrument, or judicial, official or other document, for any fraudulent purpose, is guilty of an indictable offence and liable to the same punishment as if he had stolen such document, security or instrument. R.S., c. 146, s. 396.

Concealing  
anything  
capable  
of being  
stolen.

**397.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, for any fraudulent purpose, takes, obtains, removes or conceals anything capable of being stolen. R.S., c. 146, s. 397.

Bringing  
stolen  
property  
into  
Canada.

**398.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, having obtained elsewhere than in Canada any property by any act which if done in Canada would have amounted to theft, brings such property into or has the same in Canada. R.S., c. 146, s. 398.

#### *Receiving Stolen Goods.*

Receiving  
property  
obtained  
by crime.

**399.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment, who receives or retains in his possession anything obtained by any offence punishable on indictment, or by any acts wheresoever committed, which, if committed in Canada would have constituted an offence punishable upon indictment, knowing such thing to have been so obtained. R.S., c. 146, s. 399.

**400.** Every one is guilty of an indictable offence and liable to five years' imprisonment who receives or retains in his possession, any post letter or post letter bag, or any chattel, money or valuable security, parcel or other thing, the stealing whereof is hereby declared to be an indictable offence, knowing the same to have been stolen. R.S., c. 146, s. 400.

Receiving  
stolen  
property.

**401.** Every one who receives or retains in his possession anything, knowing the same to have been unlawfully obtained, the stealing of which is punishable on summary conviction, either for every offence, or for the first and second offence only, is guilty of an offence and liable on summary conviction, for every first, second or subsequent offence of receiving, to the same punishment as if he were guilty of a first, second or subsequent offence of stealing the same. R.S., c. 146, s. 401.

Receiving  
property  
obtained  
by offence  
punishable  
on sum-  
mary con-  
viction.

**402.** The act of receiving anything unlawfully obtained is complete as soon as the offender has, either exclusively or jointly with the thief or any other person, possession of or control over such thing, or aids in concealing or disposing of it. R.S., c. 146, s. 402.

When re-  
ceiving is  
complete.

**403.** When the thing unlawfully obtained has been restored to the owner, or when a legal title to the thing so obtained has been acquired by any person, a subsequent receiving thereof shall not be an offence although the receiver may know that the thing had been previously unlawfully obtained. R.S., c. 146, s. 403.

Receiving  
after re-  
stitution  
to owner.

#### *False Pretenses.*

**404.** A false pretense is a representation, either by words or otherwise, of a matter of fact either present or past, which representation is known to the person making it to be false, and which is made with a fraudulent intent to induce the person to whom it is made to act upon such representation.

Definition.

2. Exaggerated commendation or depreciation of the quality of any thing is not a false pretense, unless it is carried to such an extent as to amount to a fraudulent misrepresentation of fact.

Exaggera-  
tion.

3. It is a question of fact whether such commendation or depreciation does or does not amount to a fraudulent misrepresentation of fact. R.S., c. 146, s. 404.

Question  
of fact.

**405.** Every one is guilty of an indictable offence and liable to three years' imprisonment who, with intent to defraud, by any false pretense, either directly or through the medium of any contract obtained by such false pre-

Obtaining  
by false  
pretense.

tense, obtains anything capable of being stolen, or procures anything capable of being stolen to be delivered to any other person than himself.

Obtaining  
credit by  
false  
pretense.

2. Every one is guilty of an indictable offence and liable to one year's imprisonment who, in incurring any debt or liability, obtains credit under false pretenses, or by means of any fraud. R.S., c. 146, s. 405; 1908, c. 18, s. 6.

Execution  
of valu-  
able  
security  
obtained  
by fraud.

**406.** Every one is guilty of an indictable offence and liable to three years' imprisonment who, with intent to defraud or injure any person by any false pretense, causes or induces any person to execute, make, accept, endorse or destroy the whole or any part of any valuable security, or to write, impress or affix any name or seal on any paper or parchment in order that it may afterwards be made or converted into or used or dealt with as a valuable security.

Publica-  
tion of  
false ad-  
vertise-  
ments to  
promote  
sales, etc.

2. Every person who knowingly publishes or causes to be published any advertisement for either directly or indirectly promoting the sale or disposal of any real or personal movable or immovable property, or any interest therein, containing any false statement or false representation which is of a character likely to or is intended to enhance the price or value of such property or any interest therein or to promote the sale or disposal thereof shall be liable upon summary conviction to a fine not exceeding two hundred dollars or to six months' imprisonment or to both fine and imprisonment. R.S., c. 146, s. 406; 1914, c. 24, s. 1.

Falsely  
pretending  
to inclose  
money in  
letter.

**407.** Every one is guilty of an indictable offence and liable to three years' imprisonment who, wrongfully and with wilful falsehood, pretends or alleges that he inclosed and sent, or caused to be inclosed and sent, in any post letter any money, valuable security or chattel, which in fact he did not so inclose and send or cause to be inclosed and sent therein.

False state-  
ments in  
writing.

2. Every one is guilty of an indictable offence and liable to one year's imprisonment and to a fine of two thousand dollars who

(a) knowingly makes or causes to be made, either directly or indirectly, or through any agency whatsoever, any false statement in writing with intent that it shall be relied upon, respecting the financial condition or means or ability to pay, of himself, or any other person, firm or corporation in whom he is interested, or for whom he is acting, for the purpose of procuring, in any form whatsoever, either the delivery of personal property, the payment of cash, the making of



a loan or credit, the extension of a credit, the discount of an account receivable, or the making, acceptance, discount or endorsement of a bill of exchange, cheque, draft, or promissory note, either for the benefit of himself or such person, firm or corporation; or

(b) knowing that a false statement in writing has been made respecting the financial condition or means or ability to pay, of himself, or such person, firm or corporation in which he is interested, or for whom he is acting, procures upon the faith thereof, either for the benefit of himself or such person, firm or corporation, any of the benefits mentioned in paragraph (a) of this section.

3. Every one is guilty of an offence and liable upon summary conviction to a fine of one hundred dollars and costs or three months' imprisonment who fraudulently obtains food, lodging or other accommodation at any hotel or inn or at any lodging, boarding or eating house; and proof that a person obtained food, lodging or other accommodation at any hotel or inn, or any lodging, boarding or eating house, and did not pay therefor, and made any false or fictitious show or pretense of having baggage, or had any false or pretended baggage, or surreptitiously removed or attempted to remove his baggage or any material part thereof, or absconded or surreptitiously left the premises, or knowingly made any false statement to obtain credit or time for payment, or offered any worthless cheque, draft, or security in payment for such food, lodging or other accommodation, shall be *prima facie* evidence of fraud. R.S., c. 146, s. 407; 1913, c. 13, s. 16.

Obtaining food and lodging fraudulently.

Evidence.

### *Personation.*

**408.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment, who, with intent fraudulently to obtain any property, personates any person, living or dead, or the administrator, wife, widow, next of kin or relation of any person. R.S., c. 146, s. 408.

Offence.  
Penalty.

**409.** Every one is guilty of an indictable offence and liable on indictment or summary conviction, to one year's imprisonment, or to a fine of one hundred dollars, who falsely, with intent to gain some advantage for himself or some other person, personates a candidate at any competitive or qualifying examination, held under the authority of any law or statute, or in connection with any university or college, or who procures himself or any other person to be personated at any such examination, or who knowingly avails himself of the results of such personation. R.S., c. 146, s. 409.

Personation at examinations.

Penalty.

**410.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who falsely and deceitfully personates

Person-  
ating  
owner of  
Govern-  
ment  
stock.

(a) any owner of any share or interest of or in any stock, annuity or other public fund transferable in any book of account kept by the Government of Canada or of any province thereof, or by any bank for any such Government; or

Company  
stock.

(b) any owner of any share or interest of or in the debt of any public body, or of or in the debt or capital stock of any body corporate, company or society; or

Dividends.

(c) any owner of any dividend, coupon, certificate or money payable in respect of any such share or interest as aforesaid; or

Grant of  
land or  
scrip.

(d) any owner of any share or interest in any claim for a grant of land from the Crown, or for any scrip or other payment or allowance in lieu of such grant of land; or

Person  
under  
power of  
attorney.

(e) any person duly authorized by any power of attorney to transfer any such share or interest, or to receive any dividend, coupon, certificate or money on behalf of the person entitled thereto;

Transfer  
under per-  
sonation.

and thereby transfers or endeavours to transfer any share or interest belonging to such owner, or thereby obtains or endeavours to obtain, as if he were the true and lawful owner or were the person so authorized by such power of attorney, any money due to any such owner or payable to the person so authorized, or any certificate, coupon or share warrant, grant of land, or scrip, or allowance in lieu thereof, or other document which, by any law in force, or any usage existing at the time, is deliverable to the owner of any such stock or fund, or to the person authorized by any such power of attorney. R.S., c. 146, s. 410.

Acknowl-  
edging in-  
strument  
in false  
name.

**411.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, without lawful authority or excuse, the proof of which shall lie on him, acknowledges, in the name of any other person, before any court, judge or other person lawfully authorized in that behalf, any recognizance of bail, or any *cognovit actionem*, or consent for judgment, or judgment, or any deed or other instrument. R.S., c. 146, s. 411.

#### *Fraud and Fraudulent Dealing with Property.*

Obtaining  
passage by  
false  
ticket.

**412.** Every one who, by means of any false ticket, badge or order, or of any other ticket, badge or order, fraudulently and unlawfully obtains or attempts to obtain any passage on any carriage, tramway or railway, or in any steam or other vessel, is guilty of an indictable offence and liable to six months' imprisonment.

2. Every one who,

(a) being an officer or employee whose duty it is to collect fares or tolls, wilfully neglects to collect any fare or toll, or wilfully collects less than the proper amount, or accepts any valuable consideration for omitting to collect such fare or toll;

(b) gives or offers to give any such officer or employee any valuable consideration for not collecting such fare or toll or for collecting a less amount than is properly due;

is guilty of an indictable offence and liable to two years' imprisonment or to a fine not exceeding two thousand five hundred dollars or to both imprisonment and fine.

3. Every one who by himself, his servant, agent or employee,

(a) by means of false or misleading billing, classification or labelling, or any other false or misleading representation or statement of the contents of any car, vessel, package or consignment, or by concealment, or failure to properly bill or disclose the entire contents of any such car, vessel, package or consignment, or by giving, furnishing or using any false address or by any other means or device, whether with or without the consent or connivance of any servant, agent or employee of any railway, steamship or other transportation company, including any railway or steamship line owned or controlled directly or indirectly by the Crown, knowingly obtains or attempts to obtain the carriage or transportation by such company of any intoxicating liquor into any country, province, district or other place, whether within or without Canada, where the importation or transportation of such liquor is in the circumstances of the case contrary to law;

(b) knowingly aids or assists in any manner whatsoever in the doing of any of the acts, matters or things mentioned in paragraph (a) of this subsection;

is guilty of an offence and shall be liable on summary conviction to imprisonment without the option of fine for a term not less than thirty days nor exceeding twelve months, with or without hard labour; and all intoxicating liquor with respect to which any conviction has been had under this section and all cases, kegs, barrels, bottles, packages, or receptacles of any kind in which the same is or was contained shall upon conviction be forfeited and shall be disposed of for medical purposes or in such other manner as the Court may from time to time order. R.S., c. 146, s. 412; 1920, c. 43, s. 9; 1923, c. 41, s. 4; 1925, c. 38, s. 7.

Fraud in regard to collections of fares and tolls.

Obtaining carriage of liquor by false billing, etc.

Offence.

Penalty.

## Penalty.

**413.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, being a director, manager, officer or member of any body corporate or company with intent to defraud,

Official de-  
stroying  
security.

(a) destroys, alters, mutilates or falsifies any book, paper, writing or valuable security belonging to the body corporate or company; or

Making  
false entry  
in book.

(b) makes, or concurs in making, any false entry, or omits or concurs in omitting to enter any material particular, in any book of account or other document.

R.S., c. 146, s. 413; 1925, c. 38, s. 8.

False pros-  
pectus,  
statement  
or account  
by  
directors  
or officers.

**414.** Every one is guilty of an indictable offence and liable to five years' imprisonment who, being a promoter, director, officer or manager of any body corporate or company, either existing or intended to be formed, makes, circulates, or publishes, or concurs in making, circulating or publishing any prospectus, statement or account which he knows to be false in any material particular, with intent to induce persons whether ascertained or not to become shareholders or partners, or with intent to deceive or defraud the members, shareholders or creditors, or any of them, whether ascertained or not, of such body corporate or company, or with intent to induce any person to entrust or advance any property to such body corporate or company, or to enter into any security for the benefit thereof. 1925, c. 38, s. 9.

## Penalty.

**415.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, being or acting in the capacity of an officer, clerk, or servant, with intent to defraud,

Official  
altering or  
mutilating  
of book.

(a) destroys, alters, mutilates or falsifies any book, paper, writing, valuable security or document which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or concurs in the same being done; or

Making  
false  
entry.

(b) makes, or concurs in making, any false entry in, or omits or alters, or concurs in omitting or altering, any material particular from or in, any such book, paper, writing, valuable security or document. R.S., c. 146, s. 415.

False  
return by  
public  
officer.

**416.** Every one is guilty of an indictable offence and liable to five years' imprisonment and to a fine not exceeding five hundred dollars, who, being an officer, collector or receiver, entrusted with the receipt, custody or management of any part of the public revenues, knowingly furnishes any false statement or return of any sum of money

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collected

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collected by him or entrusted to his care, or of any balance of money in his hands or under his control. R.S., c. 146, s. 416.

**417.** Every one is guilty of an indictable offence and Penalty. liable to a fine of eight hundred dollars and to one year's imprisonment who,

- (a) with intent to defraud his creditors, or any of them, Disposal of property, etc., with intent to defraud creditors.
  - (i) makes, or causes to be made any gift, conveyance, assignment, sale, transfer or delivery of his property, or
  - (ii) removes, conceals or disposes of any of his property; or
- (b) with the intent that any one shall so defraud his Receiving property. creditors, or any one of them, receives any such property; or
- (c) being a trader and indebted to an amount exceeding Being a trader fails to keep accounts. one thousand dollars, is unable to pay his creditors in full and has not kept books of account as, according to the usual course of trade or business in which he may have been engaged, are necessary to exhibit or explain his transactions, unless he be able to account for his losses to the satisfaction of the court or judge and to show that the absence of such books was not intended to defraud his creditors, but no person shall be prosecuted under the provisions of this paragraph by reason only of his having failed to keep such books of account at a period of more than five years before the date of such inability to pay his creditors. R.S., c. 146, s. 417; 1917, c. 14, s. 4.

**418.** Every one is guilty of an indictable offence and Destroying or falsifying books to defraud creditors. liable to ten years' imprisonment who, with intent to defraud his creditors or any of them, destroys, alters, mutilates or falsifies any of his books, papers, writings or securities, or makes, or is privy to the making of, any false or fraudulent entry in any book of account or other document. R.S., c. 146, s. 418.

**419.** Every one is guilty of an indictable offence and Vendor concealing deeds or encumbrances or falsifying pedigrees. liable to a fine, or to two years' imprisonment, or to both, who, being a seller or mortgagor of land, or of any chattel, real or personal, or chose in action, or the solicitor or agent of any such seller or mortgagor, and having been served with a written demand of an abstract of title by or on behalf of the purchaser or mortgagee before the completion of the purchase or mortgage, conceals any settlement, deed, will or other instrument material to the title, or any encumbrance, from such purchaser or mortgagee, or falsifies any pedigree upon which the title depends, with intent to

defraud and in order to induce such purchaser or mortgagee to accept the title offered or produced to him. R.S., c. 146, s. 419.

Fraudulent  
registration  
of titles.

**420.** Every one is guilty of an indictable offence and liable to three years' imprisonment who, acting either as principal or agent, in any proceeding to obtain the registration of any title to land or otherwise or in any transaction relating to land which is or is proposed to be, put on the register, knowingly and with intent to deceive makes or assists or joins in, or is privy to the making of, any material false statement or representation, or suppresses, conceals, assists or joins in, or is privy to the suppression, withholding or concealing from, any judge or registrar, or any person employed by or assisting the registrar, any material document, fact or matter of information. R.S., c. 146, s. 420.

Fraudulent  
sales of  
property.

**421.** Every one is guilty of an indictable offence and liable to one year's imprisonment and to a fine not exceeding two thousand dollars who, knowing the existence of any unregistered prior sale, grant, mortgage, hypothec, privilege or encumbrance of or upon any real property, fraudulently makes any subsequent sale of the same or of any part thereof. R.S., c. 146, s. 421.

Fraudulent  
hypotheca-  
tion of  
real pro-  
perty.

**422.** Every one who pretends to hypothecate, mortgage, or otherwise charge any real property to which he knows he has no legal or equitable title is guilty of an indictable offence and liable to one year's imprisonment, and to a fine not exceeding one hundred dollars.

Burden  
of proof.

2. The proof of the ownership of the real estate rests with the person so pretending to deal with the same. R.S., c. 146, s. 422.

Fraudulent  
seizures of  
land under  
execution.

**423.** Every one is guilty of an indictable offence and liable to one year's imprisonment who, in the province of Quebec, wilfully causes or procures to be seized and taken in execution any lands and tenements, or other real property, not being at the time of such seizure, to the knowledge of the person causing the same to be taken in execution, the *bona fide* property of the person or persons against whom, or whose estate, the execution is issued. R.S., c. 146, s. 423.

**424.** Every one is guilty of an indictable offence and liable to two years' imprisonment, who,

Holder of  
lease of  
gold or  
silver mine  
defrauding  
owner.

(a) being the holder of any lease or license issued under the provisions of any Act relating to gold or silver mining, or by any persons owning land supposed to contain any gold or silver, by fraudulent device or contrivance defrauds or attempts to defraud His

Majesty, or any person, of any gold, silver or money payable or reserved by such lease, or, with such intent as aforesaid conceals or makes a false statement as to the amount of gold or silver procured by him; or

- (b) not being the owner or agent of the owner of mining claims then being worked and not being thereunto authorized in writing by the proper officer in that behalf named in any Act relating to mines in force in the province in which the offence is alleged to have been committed sells or purchases, except to or from such owner or authorized person, any rock, ore, mineral, stone, quartz or other substance containing gold or silver or any unsmelted, or untreated or unmanufactured, or partly smelted, partly treated, or partly manufactured gold or silver; or
- (c) purchases any rock, ore, mineral, stone, quartz or other substance containing gold or silver or any unsmeltered or untreated, or unmanufactured, or partly smelted, partly treated, or partly manufactured gold or silver, except from such owner or authorized person, and does not, at the same time, execute in triplicate an instrument in writing, stating the place and time of purchase, and the quantity, quality and value of gold or silver so purchased, and the name or names of the person or persons from whom the same was purchased, and within ten days file the same with the clerk of the county or district court of the county or district in which the purchase was made, or with the officer with whom in the said county or district bills of sale or mortgages of personal property are filed or deposited;
- (d) having in his possession, or upon his premises, with his knowledge, any rock, ore, mineral, stone, or quartz of a value of not less than twenty-five cents per pound, or in the case of mica of a value of not less than seven cents per pound, or any partly melted, partly treated or partly manufactured gold or silver which there is reasonable ground to suspect has been stolen or has been dealt with contrary to the provisions of paragraphs (b) or (c) of this subsection, is unable or refuses to account satisfactorily for or prove his right to the possession of the same.

Unlawful  
sale of  
quartz,  
gold, or  
silver.

Unlawful  
purchase  
of rock,  
ore, quartz  
containing  
gold or  
silver or  
unsmelted  
gold or  
silver.

Unlawful  
possession  
of rock,  
ore, or  
quartz  
containing  
gold or  
silver.

2. Paragraphs (b) and (c) of the next preceding subsection shall not extend or apply to the Yukon Territory.

3. If in any proceeding under paragraph (d) of subsection one of this section arises as to the value of any rock, ore, mineral, stone or quartz, the judge, magistrate, justice or other officer before whom the proceeding

Determina-  
tion of  
value.

is pending may order such assay or assays, test or tests, to be made as may be deemed requisite for determining such value.

Limitation  
of pro-  
ceedings.

4. No action or prosecution for a violation of paragraph (d) of subsection one of this section shall be commenced or undertaken in any part of Canada unless or until an order has been passed by the Governor in Council declaring this section to be in force in such part of Canada. Any such order may be amended, revoked or renewed from time to time in whole or in part by any subsequent Order in Council.

By whom  
proceedings  
may be  
taken.

5. No prosecution shall be had under paragraph (d) of subsection one of this section unless it has been initiated on the information or complaint of a manager or director of a mining company or on the information or complaint of some one thereunto authorized by a mining company or a manager or director thereof, or by or with the authority of the attorney general of the province in which the offence is alleged to have been committed, or by the owner or part owner of a mine who deposes under oath that he believes that rock, ore, or other substance similar to some of those mentioned in this section has been stolen or wrongfully taken from the mine. 1909, c. 9, s. 2; 1910, c. 12, s. 1.

Penalty.

**425.** Every one is guilty of an indictable offence and liable to three years' imprisonment, who,

Warehouse-  
man, etc.,  
delivering  
receipt for  
goods with-  
out receiv-  
ing them.

(a) being the keeper of any warehouse, or a forwarder, miller, master of a vessel, wharfinger, keeper of a cove, yard, harbour or other place for storing timber, deals, staves, boards, or lumber, curer or packer of pork, or dealer in wool, carrier, factor, agent or other person, or a clerk or other person in his employ, knowingly and wilfully gives to any person a writing purporting to be a receipt for, or an acknowledgment of, any goods or other property as having been received into his warehouse, vessel, cove, wharf, or other place, or in any such place about which he is employed, or in any other manner received by him, or by the person in or about whose business he is employed, before the goods or other property named in such receipt, acknowledgment or writing have been actually delivered to or received by him as aforesaid, with intent to mislead, deceive, injure or defraud any person, although such person is then unknown to him; or

Accepting,  
etc., false  
receipt.

(b) knowingly and wilfully accepts, transmits or uses any such false receipt or acknowledgment or writing. R.S., c. 146, s. 425.



**426.** Every one is guilty of an indictable offence and Penalty.  
liable to three years' imprisonment, who,

- (a) having, in his name, shipped or delivered to the Fraudulent  
keeper of any warehouse, or to any other factor, agent disposal of  
or carrier, to be shipped or carried, any merchandise merchan-  
upon which the consignee has advanced any money or dise as to  
given any valuable security, afterwards, with intent which  
to deceive, defraud or injure such consignee, in viola money has  
tion of good faith, and without the consent of such been ad-  
consignee, makes any disposition of such merchandise vanced or  
different from and inconsistent with the agreement security  
made in that behalf between him and such consignee given by  
at the time when or before such money was so ad- consignee.  
vanced or such security given; or
- (b) knowingly and wilfully aids and assists in making Aiding in  
such disposition for the purpose of deceiving, de- disposal.  
frauding or injuring such consignee.

2. No person commits an offence under this section who, Saving.  
before making such disposition of such merchandise, pays  
or tenders to the consignee the full amount of any advance  
made thereon. R.S., c. 146, s. 426.

**427.** Every one is guilty of an indictable offence and Penalty.  
liable to three years' imprisonment, who

- (a) wilfully makes any false statement in any receipt, Fraudu-  
certificate or acknowledgment for grain, timber or lent  
other goods or property which can be used for any of receipts  
the purposes mentioned in the Bank Act; or under the  
Bank Act.
- (b) having given, or after any clerk or person in his Fraudu-  
employ has, to his knowledge, given, as having been lently  
received by him in any mill, warehouse, vessel, cove alienating  
or other place, any such receipt, certificate or property  
acknowledgment for any such grain, timber or covered by  
goods or property, or having obtained any such receipt.  
receipt, certificate or acknowledgment, and after having  
endorsed or assigned it to any bank or person, after-  
wards, and without the consent of the holder or en-  
dorsee in writing, or the production and delivery of  
the receipt, certificate or acknowledgment, wilfully  
alienates or parts with, or 'does not deliver to such  
holder or owner of such receipt, certificate or ac-  
knowledgment, the grain, timber, goods or other pro-  
perty therein mentioned. R.S., c. 146, s. 427.

**428.** If any offence mentioned in any of the three sec- Innocent  
tions last preceding is committed by the doing of anything partners.  
in the name of any firm, company or co-partnership of  
persons, the person by whom such thing is actually done,  
or who connives at the doing thereof, is alone guilty of  
the offence. R.S., c. 146, s. 428.

Selling  
vessel or  
wreck  
without  
title.

**429.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, not having lawful title thereto, sells any vessel or wreck found within the limits of Canada. R.S., c. 146, s. 429.

Secreting  
wreck, etc.

**430.** Every one who

(a) secretes any wreck, or defaces or obliterates the marks thereon, or uses means to disguise the fact that it is wreck, or in any manner conceals the character thereof, or the fact that the same is wreck, from any person entitled to inquire into the same; or

Receiving  
wreck.

(b) receives any wreck, knowing the same to be wreck, from any person other than the owner thereof or the receiver of wrecks, and does not within forty-eight hours inform the receiver thereof; or

Sale of  
wreck.

(c) offers for sale or otherwise deals with any wreck, knowing it to be wreck, not having a lawful title to sell or deal with the same; or

Keeping  
wreck.

(d) keeps in his possession any wreck knowing it to be wreck, without a lawful title so to keep the same, for any time longer than the time reasonably necessary for the delivery of the same to the receiver; or

Boarding  
wrecked  
vessel.

(e) boards any vessel which is wrecked, stranded or in distress against the will of the master, unless the person so boarding is, or acts by command of the receiver;

Penalty.

is guilty of an offence punishable on indictment with two years' imprisonment, and on summary conviction before two justices with a penalty of four hundred dollars or six months' imprisonment with or without hard labour. R.S., c. 146, s. 430.

Purchasing  
old marine  
stores from  
person  
under  
sixteen.

**431.** Every person dealing in old marine stores of any description, including anchors, cables, sails, junk, iron, copper, brass, lead or other marine stores, who, by himself or his agent, purchases any old marine stores from any person under the age of sixteen years, is guilty of an offence and liable, on summary conviction, to a penalty of four dollars for the first offence and of six dollars for every subsequent offence.

Receiving  
old  
marine  
stores.

2. Every such person who, by himself or his agent, purchases or receives any old marine stores into his shop, premises or place of deposit, except in the daytime between sunrise and sunset, is guilty of an offence and liable, on summary conviction, to a penalty of five dollars for the first offence and of seven dollars for every subsequent offence.

Having in  
possession.

3. Every person, purporting to be a dealer in old marine stores, on whose premises any such stores which have been stolen are found secreted, is guilty of an indictable offence and liable to five years' imprisonment.

4. Every one who, being a dealer in second-hand goods of any kind, trades or traffics in or has in his possession for sale any boom or other chains, lines or shackles for the use of rafting, storing, fastening or towing lumber or logs, and who purchases, trades or traffics in any boom or other chain, line or shackle which has upon it the trade mark duly registered or other mark or name of any person, without the written consent of such person, or who, without such consent, has in his possession any such boom chains or other description of chains, lines or shackles for the purpose of sale or traffic, is guilty of an offence, and shall be liable on summary conviction to a penalty of twenty-five dollars or imprisonment for any term not exceeding thirty days for a first offence, and of fifty dollars or imprisonment for sixty days for any subsequent offence. R.S., c. 146, s. 431; 1919, c. 46, s. 11.

Dealers in second-hand goods purchasing marked boom chains, etc., without written consent of owners of mark guilty of an offence.

432. The marks specified in this section in that behalf may be applied in or on any public stores to denote His Majesty's property in such stores.

Marks to be used on public stores.

Marks appropriated for His Majesty's use in or on Naval, Military, Ordnance, Barrack, Hospital and in Victualling Stores.

| STORES                                                | MARKS                                                                               |
|-------------------------------------------------------|-------------------------------------------------------------------------------------|
| Hempen cordage and wire rope.                         | White, black or coloured threads laid up with the yarns and the wire, respectively. |
| Canvas, fearnought, hammocks and seamen's bags.       | A blue line in a serpentine form.                                                   |
| Bunting.                                              | A double tape in the warp.                                                          |
| Candles.                                              | Blue or red cotton threads in each wick or wicks of red cotton.                     |
| Timber, metal and other stores not before enumerated. | The broad arrow, with or without the letters W.D.                                   |

Marks appropriated for use on stores, the property of His Majesty in the right of his Government of Canada

| STORES                                                                                                  | MARKS                                                                                                                   |
|---------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|
| Public stores.                                                                                          | The name of any public department, or the word "Canada," either alone or in combination with a Crown or the Royal Arms. |
| Militia stores.                                                                                         | The broad arrow within the letter C.                                                                                    |
| Public stores in charge or under the control of or issued by or through the Department of Public Works. | D.P.W.                                                                                                                  |

The Governor in Council may also prescribe, by notice published in the *Canada Gazette*, what additional or other marks are appropriated for His Majesty's use in or on naval, military, militia or other stores and property, whether such stores or property belong to His Majesty in the right of His Government of Canada, or in the right of any other of His Majesty's Dominions.

Marks on public stores.

Application  
by officer.

2. It shall be lawful for any public department, and the contractors, officers and workmen of such department, to apply such marks, or any of them, in or on any such stores. R.S., c. 146, s. 432; 1907, c. 7, s. 1; 1913, c. 13, s. 17; 1921, c. 25, s. 6.

Unlawfully  
applying  
marks.

**433.** Every one is guilty of an indictable offence and liable to two years' imprisonment, who,

(a) without lawful authority the proof of which shall lie on him, applies any of the said marks in or on any public stores.

Obliterat-  
ing marks  
from public  
stores.

(b) with intent to conceal His Majesty's property in any public stores, takes out, destroys or obliterates, wholly or in part, any of the said marks. R.S., c. 146, ss. 433 and 434.

Unlawful  
possession,  
sale, etc.,  
of public  
stores.

**434.** Every one who, without lawful authority the proof of which lies on him, receives, possesses, keeps, sells or delivers any public stores bearing any such mark as aforesaid, knowing them to bear such mark, is guilty of an offence punishable on indictment or on summary conviction, and liable, on conviction on indictment, to one year's imprisonment, and, if the value thereof does not exceed twenty-five dollars, on summary conviction before two justices, to a fine of one hundred dollars or to six months' imprisonment with or without hard labour. R.S., c. 146, s. 435.

Being in  
possession  
without  
being able  
to justify.

**435.** Every one, not being in His Majesty's service, or a dealer in marine stores or a dealer in old metals in whose possession any public stores bearing any such mark are found who, when taken or summoned before two justices, does not satisfy such justices that he came lawfully by such stores, is guilty of an offence and liable, on summary conviction, to a fine of twenty-five dollars.

Summon-  
ing former  
possessors.

2. If any such person satisfies such justices that he came lawfully by the stores so found, the justices, in their discretion, as the evidence given or the circumstances of the case require may summon before them every person through whose hands such stores appear to have passed.

Every un-  
lawful  
possessor  
liable.

3. Every one who has had possession thereof, who does not satisfy such justices that he came lawfully by the same, is liable, on summary conviction, of having had possession thereof, to a fine of twenty-five dollars, and in default of payment to three months' imprisonment with or without hard labour. R.S., c. 146, s. 436.

Fraud etc.,  
in connec-  
tion with  
sale, etc.,  
of military  
stores.

**436.** Every person is guilty of an indictable offence and liable to imprisonment for two years, or to a fine not exceeding five thousand dollars, or to both imprisonment and fine, who knowingly sells or delivers, or causes to be sold

sold or delivered, to His Majesty or to any officer or servant of His Majesty, any defective military, militia or naval stores of any kind or description, whether such stores are for His Majesty in the right of His Government of Canada, or in the right of any other of His Majesty's Dominions, or who in any way commits any act of dishonesty, fraud, or deception upon His Majesty or any of His Majesty's officers or servants in connection with the sale or lease or purchase or delivery or manufacture of such military, militia or naval stores.

2. If any offence referred to in this section is committed by a body corporate, every director, officer, agent and employee of such body corporate who has knowingly taken any part or share in such fraud, dishonesty or deception, or who knows or had reason to suspect that such fraud, dishonesty or deception would be or was being committed, or knows or had reason to suspect that such fraud, dishonesty or deception has been committed and does not at once inform His Majesty thereof, shall be liable as well as the body corporate to the penalties imposed by this section in all respects as if such offence was committed by said director or other person, and every such body corporate, director or other person convicted of such offence shall be thereafter incapable of contracting with His Majesty or with any of His Majesty's officers or servants or of holding any contract or office with, from or under Him or them, or of receiving any benefit under any contract so made. 1915, c. 12, s. 3.

Liability  
of officers  
of  
company.

437. Every one who, without permission in writing from the Admiralty, or from some person authorized by the Admiralty in that behalf, creeps, sweeps, dredges, or otherwise searches for stores in the sea, or any tidal or inland water, within one hundred yards from any vessel belonging to His Majesty or in His Majesty's service, or from any mooring place or anchoring place appropriated to such vessel, or from any mooring belonging to His Majesty, or from any of His Majesty's wharfs or docks, or victualling or steam factory yards, is guilty of an offence and liable, on summary conviction before two justices, to a fine of twenty-five dollars, or to three months' imprisonment, with or without hard labour. R.S., c. 146, s. 437.

Searching  
for stores  
near His  
Majesty's  
vessels,  
wharfs or  
docks.

438. Every person shall be liable on summary conviction to a penalty not exceeding three hundred dollars or to imprisonment for any term not exceeding twelve months or to both fine and imprisonment who without lawful authority

Unlawfully  
wearing  
decorations  
or uniform  
or unlaw-  
fully  
possessing

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(a)  
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certificate  
of dis-  
charge or  
unlawfully  
making  
alterations  
in such  
certificate.

- (a) wears any uniform of any of His Majesty's naval, land or air forces, or any uniform which is so similar to the uniform of any of the said forces as to be likely to be mistaken therefor;
- (b) wears any distinctive mark relating to wounds received or service performed in war, or any military medal, ribbon, badge, chevron or any decoration or order that is awarded for war services, or any imitation thereof, or any mark or device or thing likely to be mistaken for any such mark, medal, ribbon, badge, chevron, decoration or order;
- (c) has in his possession any certificate of discharge or statement of service from any of His Majesty's naval, land or air forces not issued to and belonging to such person; or
- (d) has in his possession any commission or warrant or any certificate of discharge or statement of service issued to any officer or person in, or who has been in, any of His Majesty's naval, land or air forces, which contains any alteration that is not verified by the initials of the officer issuing the same, or by the initials of some officer thereto lawfully authorized.

Onus of  
proof.

2. In any prosecution under this section in which it is proved that the accused has worn a uniform, mark, medal, ribbon, badge, chevron, decoration or order aforesaid, or without lawful excuse has in his possession any certificate or statement aforesaid, he shall be deemed to have worn or had the same in his possession without lawful authority, unless he proves that he had such authority. 1920, c. 43, s. 10.

Receiving  
clothing or  
furniture  
from sol-  
diers or  
deserters.

#### 439. Every one who

- (a) buys, exchanges or detains, or otherwise receives from any soldier, militiaman or deserter any arms, clothing or furniture belonging to His Majesty, or any such articles belonging to any soldier, militiaman or deserter as are generally deemed regimental necessities according to the custom of the army; or
- (b) causes the colour of such clothing or articles to be changed; or
- (c) exchanges, buys or receives from any soldier or militiaman, any provisions, without leave in writing from the officer commanding the regiment or detachment to which such soldier belongs;

Changing  
the colour.

Receiving  
provisions  
from  
soldier.

Offence.  
Penalty.

is guilty of an offence punishable on indictment or on summary conviction, and liable on conviction on indictment to five years' imprisonment, and on summary conviction before two justices to a penalty not exceeding forty

800

dollars

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dollars, and not less than twenty dollars and costs, and, in default of payment, to six months' imprisonment with or without hard labour.

2. Every one who buys, exchanges, or detains, or otherwise receives from any seaman or marine, upon any account whatsoever, or has in his possession any arms or clothing, or any articles, belonging to any seaman, marine or deserter, as are generally deemed necessities according to the custom of the navy, is guilty of an offence punishable on indictment or on summary conviction and liable on conviction on indictment to five years imprisonment, and on summary conviction before two justices to a penalty not exceeding one hundred and twenty dollars, and not less than twenty dollars and costs, and in default of payment to six months' imprisonment. R.S., c. 146, ss. 438 and 439.

Receiving  
necessaries  
from sea-  
men or  
marines.

**440.** Every one who detains, buys, exchanges, takes on pawn or receives, from any seaman or any person acting for a seaman, any seaman's property, or solicits or entices any seaman, or is employed by any seaman to sell, exchange or pawn any seaman's property, unless he acts in ignorance of the same being a seaman's property or of the person with whom he deals being or acting for a seaman, or unless the same is sold by the order of the Admiralty or commander in chief, is guilty of an offence punishable on indictment or on summary conviction and liable on conviction on indictment to five years' imprisonment, and on summary conviction for a first offence to a penalty not exceeding one hundred dollars; and on summary conviction for a second offence, to the same penalty, or in the discretion of the justice, six months' imprisonment, with or without hard labour. R.S., c. 146, s. 440.

Receiving  
seamen's  
property  
unless in  
ignorance  
or on sale  
by author-  
ity.

**441.** Every one in whose possession any seaman's property is found who does not satisfy the justice before whom he is taken or summoned that he came by such property lawfully is liable, on summary conviction, to a fine of twenty-five dollars. R.S., c. 146, s. 441.

Not justify-  
ing posses-  
sion of  
same.

**442.** Every one is guilty of an indictable offence and liable to three years' imprisonment who,

Cheating  
at play.

(a) with intent to defraud any person, cheats in playing at any game or in holding the stakes, or in betting on any event;

(b) carries on or plays, or offers to carry on or to play, or employs any one to carry on or to play, in any public place or any place to which the public have access, the game known as "three-card monte," or

Three-card  
monte, etc.,  
forbidden.

any similar game, whether played with cards or any other instruments and whatever may be the number of cards or instruments employed, for any valuable consideration, or who receives bets, wagers or deposits of any kind on the outcome of any such game, or who permits in any such place that is under his control any person to carry on or to play any such game. R.S., c. 146, s. 442; 1921, c. 25, s. 7.

Pretending  
to practise  
witchcraft,  
etc.

**443.** Every one is guilty of an indictable offence and liable to one year's imprisonment who pretends to exercise or use any kind of witchcraft, sorcery, enchantment or conjuration, or undertakes to tell fortunes, or pretends from his skill or knowledge in any occult or crafty science, to discover where or in what manner any goods or chattels supposed to have been stolen or lost may be found. R.S., c. 146, s. 443.

Conspiracy  
to defraud.

**444.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who conspires with any other person, by deceit or falsehood or other fraudulent means, to defraud the public or any person, ascertained or unascertained, or to affect the public market price of stocks, shares, merchandise, or anything else publicly sold, whether such deceit or falsehood or other fraudulent means would or would not amount to a false pretense as hereinbefore defined. R.S., c. 146, s. 444.

### *Robbery and Extortion.*

Robbery  
defined.

**445.** Robbery is theft accompanied with violence or threats of violence to any person or property used to extort the property stolen, or to prevent or overcome resistance to its being stolen. R.S., c. 146, s. 445.

Penalty.

**446.** Every one is guilty of an indictable offence and liable to imprisonment for life and to be whipped who

Robbery  
with  
violence.

(a) robs any person and at the time of, or immediately before or immediately after, such robbery, wounds, beats, strikes, or uses any personal violence to, such person; or

Joint  
robbery.

(b) being together with any other person or persons robs, or assaults with intent to rob, any person; or

Robbery  
while  
armed.

(c) being armed with an offensive weapon or instrument robs, or assaults with intent to rob, any person. R.S., c. 146, s. 446.

Penalty  
for rob-  
bery.

**447.** Every one who commits robbery is guilty of an indictable offence and liable to fourteen years' imprisonment and to be whipped. R.S., c. 146, s. 447; 1921, c. 25, s. 8.



**448.** Every one who assaults any person with intent to rob him is guilty of an indictable offence and liable to three years' imprisonment and to be whipped. R.S., c. 146, s. 448; 1921, c. 25, s. 8. Assault with intent to rob.

**449.** Every one is guilty of an indictable offence and liable to imprisonment for life, or for any term not less than five years, who stops a mail with intent to rob or search the same. R.S., c. 146, s. 449. Stopping the mail with intent to rob.

**450.** Every one is guilty of an indictable offence and liable to imprisonment for life who, with intent to defraud or injure, by unlawful violence to, or restraint of the person of another, or by the threat that either the offender or any other person will employ such violence or restraint, unlawfully compels any person to execute, make, accept, endorse, alter or destroy the whole or any part of any valuable security, or to write, impress or affix any name or seal upon any paper or parchment, in order that it may be afterwards made or converted into or used or dealt with as a valuable security. R.S., c. 146, s. 450. Compelling execution of document by force with intent to defraud.

**451.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing 'demanding of any person with menaces, and without any reasonable or probable cause, any property, chattel, money, valuable security or other valuable thing. R.S., c. 146, s. 451. Letters demanding property with menaces.

**452.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, with menaces, demands from any person, either for himself or for any other person, anything capable of being stolen with intent to steal it. R.S., c. 146, s. 452. Demanding with intent to steal.

**453.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, with intent to extort or gain anything from any person, Penalty. Intent to extort.

- (a) accuses or threatens to accuse either that person or any other person, whether the person accused or threatened with accusation is guilty or not, of Accusation of crime.
- (i) any offence punishable by law with death or imprisonment for seven years or more,
  - (ii) any assault with intent to commit a rape, or any attempt or endeavour to commit a rape, or any indecent assault,
  - (iii) carnally knowing or attempting to know any child so as to be punishable under this Act,

- (iv) any infamous offence, that is to say, buggery, an attempt or assault with intent to commit buggery, or any unnatural practice, or incest,
- (v) counselling or procuring any person to commit any such infamous offence; or
- Threats.** (b) threatens that any person shall be so accused by any other person; or
- Threatening document.** (c) causes any person to receive a document containing such accusation or threat, knowing the contents thereof;
- Compelling execution of document.** or who by any of the means aforesaid compels or attempts to compel any person to execute, make, accept, endorse, alter or destroy the whole or any part of any valuable security, or to write, impress or affix any name or seal upon or to any paper or parchment, in order that it may be afterwards made or converted into or used or dealt with as a valuable security. R.S., c. 146, s. 453.
- Penalty.** **454.** Every one is guilty of an indictable offence and liable to imprisonment for seven years who,
- Intent to extort.** (a) with intent to extort or gain anything from any person, accuses or threatens to accuse either that person or any other person of any offence other than those specified in the last preceding section, whether the person accused or threatened with accusation is guilty or not of that offence; or
- Accusation of crime.** (b) with such intent as aforesaid threatens that any person shall be so accused by any person; or
- Threats.** (c) causes any person to receive a document containing such accusation or threat knowing the contents thereof;
- Threatening document.** or who by any of the means aforesaid compels or attempts to compel any person to execute, make, accept, endorse, alter or destroy the whole or any part of any valuable security, or to write, impress or affix any name or seal upon or to any paper or parchment, in order that it may be afterwards made or converted into, or used or dealt with as a valuable security. R.S., c. 146, s. 454.
- Compelling execution of document.**

*Burglary and Housebreaking.*

- Breaking place of worship and committing offence.** **455.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who breaks and enters any place of public worship and commits any indictable offence therein, or who, having committed any indictable offence therein, breaks out of such place. R.S., c. 146, s. 455.

- Breaking with intent to commit offence.** **456.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who breaks and enters any place of public worship, with intent to commit any indictable offence therein. R.S., c. 146, s. 456.

**457.** Every one is guilty of an indictable offence and Penalty.  
liable to imprisonment for life who

- (a) breaks and enters a dwelling-house by night with Breaking  
intent to commit any indictable offence therein; or dwelling by  
night.  
(b) breaks out of any dwelling-house by night, either Breaking  
after committing an indictable offence therein, or out of  
after having entered such dwelling-house, either by dwelling  
day or by night, with intent to commit an indictable by night.  
offence therein.

2. Every one convicted of an offence under this section Commit-  
who when arrested, or when he committed such offence, ting the  
had upon his person any offensive weapon, shall, in addi- offence  
tion to the imprisonment above prescribed, be liable to be when  
whipped. R.S., c. 146, s. 457. armed.

**458.** Every one is guilty of an indictable offence and Penalty.  
liable to fourteen years' imprisonment who

- (a) breaks and enters any dwelling-house by day and Breaking  
commits any indictable offence therein; or dwelling  
by day.  
(b) breaks out of any dwelling-house by day after hav- Breaking  
ing committed any indictable offence therein. R.S., out of  
c. 146, s. 458. dwelling  
by day.

**459.** Every one is guilty of an indictable offence and Breaking  
liable to seven years' imprisonment who, by day, breaks with in-  
and enters any dwelling-house with intent to commit any tent to  
indictable offence therein. R.S., c. 146, s. 459. commit  
offence.

**460.** Every one is guilty of an indictable offence and Breaking  
liable to fourteen years' imprisonment who, either by day school-  
or night, breaks and enters and commits any indictable house, shop,  
offence in a school-house, shop, warehouse, counting-house, warehouse,  
office, office building, theatre, store, store-house, garage, office,  
pavilion, factory, work-shop, railway station or other rail- theatre,  
way building or shed, freight car, passenger coach or other factory,  
railway car, or any building belonging to His Majesty, or railway  
to any Government department or to any municipal or station,  
other public authority, or any building within the curtilage etc., and  
of a dwelling-house, but not so connected therewith as to committing  
form part of it under the provisions hereinbefore contained, indictable  
or in any pen, cage, den or enclosure in which fur-bearing offence.  
animals wild by nature are kept in captivity for breeding  
or commercial purposes. 1925, c. 38, s. 10.

**461.** Every one is guilty of an indictable offence and Breaking  
liable to seven years' imprisonment who, either by day shop, etc.,  
or night, breaks and enters any of the buildings, or any pen, with  
cage, den or enclosure mentioned in the last preceding intent.  
section with intent to commit any indictable offence therein.  
1913, c. 13, s. 18.

Being found in dwelling-house at night.

**462.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who unlawfully enters, or is in, any dwelling-house by night with intent to commit any indictable offence therein. R.S., c. 146, s. 462.

Penalty.

**463.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who is found

Armed with intent to break by day.

(a) armed with any dangerous or offensive weapon or instrument by day, with intent to break or enter into any dwelling-house, and to commit any indictable offence therein; or

With intent to break by night.

(b) armed as aforesaid by night, with intent to break into any building and to commit any indictable offence therein. R.S., c. 146, s. 463.

Penalty.

**464.** Every one is guilty of an indictable offence and liable to five years' imprisonment who is found

Having housebreaking instruments by night.

(a) having in his possession by night, without lawful excuse, the proof of which shall lie upon him, any instrument of housebreaking; or

By day.

(b) having in his possession by day any such instrument with intent to commit any indictable offence; or

Disguised by night.

(c) having his face masked or blackened, or being otherwise disguised, by night, without lawful excuse, the proof whereof shall lie on him; or

Disguised by day.

(d) having his face masked or blackened, or being otherwise disguised by day, with intent to commit any indictable offence. R.S., c. 146, s. 464.

Punishment after previous conviction.

**465.** Every one who, after a previous conviction for any indictable offence, is convicted of an indictable offence specified in this Part for which the punishment on a first conviction is less than fourteen years' imprisonment is liable to fourteen years' imprisonment. R.S., c. 146, s. 465.

### *Forgery and Preparation Therefor.*

Definition.

**466.** Forgery is the making of a false document, knowing it to be false, with the intention that it shall in any way be used or acted upon as genuine, to the prejudice of any one whether within Canada or not, or that some person should be induced by the belief that it is genuine, to do or refrain from doing anything, whether within Canada or not.

Making false document.

2. Making a false document includes altering a genuine document in any material part, or making any material addition to it or adding to it any false date, attestation, seal or other thing which is material, or making any material alteration in it, either by erasure, obliteration, removal or otherwise.

3. Forgery is complete as soon as the document is made with such knowledge and intent as aforesaid, though the offender may not have intended that any particular person should use or act upon it as genuine, or be induced, by the belief that it is genuine, to do or refrain from doing anything. When forgery complete.

4. Forgery is complete although the false document may be incomplete, or may not purport to be such a document as would be binding in law, if it be so made and is such as to indicate that it was intended to be acted on as genuine. False document may be incomplete.  
R.S., c. 146, s. 466.

**467.** Every one is guilty of an indictable offence who, knowing a document to be forged, uses, deals with, or acts upon it, or attempts to use, deal with, or act upon it, or causes, or attempts to cause any person to use, deal with, or act upon it, as if it were genuine, and is liable to the same punishment as if he had forged the document. Uttering forged documents.

2. It is immaterial where the document was forged. Wherever forged.  
R.S., c. 146, s. 467.

**468.** Every one who commits forgery of Forgery.

(a) any document having impressed thereon or affixed thereto any public seal of the United Kingdom or any part thereof, or of Canada or any part thereof, or of any dominion, possession or colony of His Majesty; or Public seal.

(b) any document bearing the signature of the Governor General, or of any administrator, or of any deputy of the Governor, or of any lieutenant governor or any one at any time administering the government of any province of Canada; or Signature of Governor.

(c) any document containing evidence of, or forming the title or any part of the title to, any land or hereditament, or to any interest in or to any charge upon any land or hereditament, or evidence of the creation, transfer or extinction of any such interest or charge; or Documentary title.

(d) any entry in any register or book, or any memorial or other document made, issued, kept or lodged under any Act for or relating to the registering of deeds or other instruments respecting or concerning the title to or any claim upon any land or the recording or declaring of titles to land; or Entry in register.

(e) any document required for the purpose of procuring the registering of any such deed or instrument or the recording or declaring of any such title; or Registration document.

(f) any document which is made, under any Act, evidence of the registering or recording or declaring of any such deed, instrument or title; or Document evidence of registration.

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|                                  |                                                                                                                                                                                                                                                                                                                                    |
|----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Affecting the title.             | (g) any document which is made by any Act evidence affecting the title to land; or                                                                                                                                                                                                                                                 |
| Notarial Act.                    | (h) any notarial act or document or authenticated copy, or any procès-verbal of a surveyor or authenticated copy thereof; or                                                                                                                                                                                                       |
| Register of births, deaths, etc. | (i) any register of births, baptisms, marriages, deaths or burials authorized or required by law to be kept, or any certified copy of any entry in or extract from any such register; or                                                                                                                                           |
| Copy of register.                | (j) any copy of any such register required by law to be transmitted by or to any registrar or other officer; or                                                                                                                                                                                                                    |
| Will or probate.                 | (k) any will, codicil or other testamentary document, either of a dead or living person, or any probate or letters of administration, whether with or without the will annexed; or                                                                                                                                                 |
| Transfer of government stock.    | (l) any transfer or assignment of any share or interest in any stock, annuity or public fund of the United Kingdom or any part thereof, or of Canada or any part thereof, or of any dominion, possession or colony of His Majesty, or of any foreign state or country, or receipt or certificate for interest accruing thereon; or |
| Transfer of company stock.       | (m) any transfer or assignment of any share or interest in the debt of any public body, company or society, British, Canadian or foreign, or of any share or interest in the capital stock of any such company or society, or receipt or certificate for interest accruing thereon; or                                             |
| Transfer of grant as scrip.      | (n) any transfer or assignment of any share or interest in any claim to a grant of land from the Crown, or to any scrip or other payment or allowance in lieu of any such grant of land; or                                                                                                                                        |
| Power of attorney.               | (o) any power of attorney or other authority to transfer any interest or share hereinbefore mentioned, or to receive any dividend or money payable in respect of any such share or interest; or                                                                                                                                    |
| Entry evidence of stock.         | (p) any entry in any book or register, or any certificate, coupon, share, warrant or other document which by any law or any recognized practice is evidence of the title of any person to any such stock, interest or share, or to any dividend or interest payable in respect thereof; or                                         |
| Exchequer bill.                  | (q) any exchequer bill or endorsement thereof or receipt or certificate for interest accruing thereon; or                                                                                                                                                                                                                          |
| Bank note.                       | (r) any bank note or bill of exchange, promissory note or cheque, or any acceptance, endorsement or assignment thereof; or                                                                                                                                                                                                         |
| Scrip.                           | (s) any scrip in lieu of land; or                                                                                                                                                                                                                                                                                                  |

- (*t*) any document which is evidence of title to any portion of the debt of any dominion, colony or possession of His Majesty, or of any foreign state, or any transfer or assignment thereof; or Evidence of title to government debt.
- (*u*) any deed, bond, debenture, or writing obligatory, or any warrant, order, or other security for money or payment of money, whether negotiable or not, or endorsement or assignment thereof; or Document security for money.
- (*v*) any accountable receipt or acknowledgment of the deposit, receipt, or delivery of money or goods, or endorsement or assignment thereof; or Receipt for money or goods.
- (*w*) any bill of lading, charter-party, policy of insurance, or any shipping document accompanying a bill of lading, or any endorsement or assignment thereof; or Shipping document.
- (*x*) any warehouse receipt, dock warrant, dock-keeper's certificate, delivery order, or warrant for the delivery of goods, or of any valuable thing, or any endorsement or assignment thereof; or Warehouse receipt.
- (*y*) any other document used in the ordinary course of business as proof of the possession or control of goods, or as authorizing, either on endorsement or delivery, the possessor of such document to transfer or receive any goods; Document used as evidence of right to goods.

is guilty of an indictable offence and liable to imprisonment for life if the document forged purports to be, or was intended by the offender to be understood to be or to be used as genuine. R.S., c. 146, s. 468. Penalty.

**469.** Every one who commits forgery of

Forgery.

- (*a*) any entry or document made, issued, kept or lodged under any Act for or relating to the registry of any instrument respecting or concerning the title to, or any claim upon, any personal property; or Property registration.
- (*b*) any public register or book not hereinbefore mentioned appointed by law to be made or kept, or any entry therein; Public register.

is guilty of an indictable offence and liable to fourteen years' imprisonment if the document forged purports to be, or was intended by the offender to be understood to be, or to be used as genuine. R.S., c. 146, s. 469. Penalty.

**470.** Every one who commits forgery of

Forgery.

- (*a*) any record of any court of justice, or any document whatever belonging to or issuing from any court of justice, or being or forming part of any proceeding therein; or Record of court of justice.
- (*b*) any certificate, office copy, or certified copy or other document which, by any statute in force for the time being, is admissible in evidence; or Documentary evidence.

- Document issued by court. (c) any document made or issued by any judge, officer or clerk of any court of justice, or any document upon which by the law or usage at the time in force, any court of justice or any officer might act; or
- Magistrate, process. (d) any document which any magistrate is authorized or required by law to make or issue; or
- Entry in register. (e) any entry in any register or book kept, under the provisions of any law, in or under the authority of any court of justice or magistrate acting as such; or
- Letters patent. (f) any copy of any letters patent, or of the enrolment or enrolment of letters patent, or of any certificates thereof; or
- License. (g) any license or certificate for or of marriage; or
- Contract. (h) any contract or document which, either by itself or with others, amounts to a contract, or is evidence of a contract; or
- Power of attorney. (i) any power or letter of attorney or mandate; or
- Orders for money or goods. (j) any authority or request for the payment of money, or for the delivery of goods, or of any note, bill or valuable security; or
- Receipt or discharge. (k) any acquittance or discharge, or any voucher of having received any goods, money, note, bill or valuable security, or any instrument which is evidence of any such receipt; or
- Documentary evidence. (l) any document to be given in evidence as a genuine document in any judicial proceeding; or
- Railway ticket. (m) any ticket or order for a free or paid passage on any carriage, tramway or railway, or any steam or other vessel; or
- Other documents. (n) any document not mentioned in this or the two last preceding sections;
- Penalty. is guilty of an indictable offence and liable to seven years' imprisonment if the document forged purports to be, or was intended by the offender to be understood to be, or to be used as genuine. R.S., c. 146, s. 470.
- Penalty. **471.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, without lawful authority or excuse, the proof whereof shall lie on him,
- Machinery for exchequer bill paper. (a) makes, begins to make, uses or knowingly has in his possession, any machinery or instrument or material for making exchequer bill paper, revenue paper or paper intended to resemble the bill paper of any firm or body corporate, or person carrying on the business of banking; or
- Engraving for bill or note. (b) engraves or makes upon any plate or material anything purporting to be, or apparently intended to resemble, the whole or any part of any exchequer bill or bank note; or



- (c) uses any such plate or material for printing any part of any such exchequer bill or bank note; or Using the same.
- (d) knowingly has in his possession any such plate or material as aforesaid; or Possessing the same.
- (e) makes, uses or knowingly has in his possession any exchequer bill paper, revenue paper, or any paper intended to resemble any bill paper of any firm, body corporate, company or person, carrying on the business of banking, or any paper upon which is written or printed the whole or any part of any exchequer bill, or any bank note; or Making exchequer or other bill paper.
- (f) engraves or makes upon any plate or material anything intended to resemble the whole or any distinguishing part of any bond or undertaking for the payment of money used by any dominion, colony or possession of His Majesty or by any foreign prince or state, or by any body corporate, or other body of the like nature, whether within His Majesty's dominions or without; or Engraving for government bond.
- (g) uses any such plate or other material for printing the whole or any part of such bond or undertaking; or Using the same.
- (h) knowingly offers, disposes of or has in his possession any paper upon which such bond or undertaking, or any part thereof, has been printed. R.S., c. 146, s. 471. Possessing the same.

#### *Offences Resembling Forgery.*

**472.** Every one is guilty of an indictable offence and liable to imprisonment for life who unlawfully makes or who counterfeits any public seal of the United Kingdom or any part thereof, or of Canada or any part thereof, or of any dominion, possession or colony of His Majesty, or the impression of any such seal, or uses any such seal or impression, knowing the same to be so unlawfully made or counterfeited. R.S., c. 146, s. 472. Counterfeiting government seals.

**473.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who unlawfully makes or who counterfeits any seal of a court of justice, or any seal of or belonging to any registry office or burial board, or the impression of any such seal, or uses any such seal or impression knowing the same to be so unlawfully made or counterfeited. R.S., c. 146, s. 473. Counterfeiting seals of courts or registry or burial boards.

**474.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who prints any proclamation, order, regulation or appointment, or notice thereof, and causes the same falsely to purport to have been printed by the King's Printer for Canada, or the Government printer for any province of Canada, as the case may Unlawfully printing counterfeit proclamation.

Tendering  
same in  
evidence.

be, or tenders in evidence any copy of any proclamation, order, regulation or appointment which falsely purports to have been printed as aforesaid, knowing that the same was not so printed. R.S., c. 146, s. 474.

Sending  
telegrams  
in false  
names.

**475.** Every one is guilty of an indictable offence who, with intent to defraud, causes or procures any telegram to be sent or delivered as being sent by the authority of any person knowing that it is not sent by such authority, with intent that such telegram should be acted on as being sent by that person's authority, and is liable, upon conviction thereof, to the same punishment as if he had forged a document to the same effect as that of the telegram. R.S., c. 146, s. 475.

Sending  
false tele-  
grams.

**476.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, with intent to injure or alarm any person, sends, causes, or procures to be sent any telegram or letter or other message containing matter which he knows to be false. R.S., c. 146, s. 476.

Drawing  
document  
without  
authority.

**477.** Every one is guilty of an indictable offence who, with intent to defraud and without lawful authority or excuse, makes or executes, draws, signs, accepts or endorses, in the name or on the account of another person, by procuration or otherwise, any document, or makes use of or utters any such document knowing it to be so made, executed, signed, accepted or endorsed, and is liable to the same punishment as if he had forged such document. R.S., c. 146, s. 477.

Penalty.

**478.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who

Obtaining  
anything  
by forged  
instrument  
or by pro-  
bate of  
forged  
will.

(a) demands, receives, or obtains anything, or causes or procures anything to be delivered or paid to any person, under, upon, or by virtue of any forged instrument knowing the same to be forged, or under, upon, or by virtue of any probate or letters of administration, knowing the will, codicil or testamentary writing on which such probate or letters of administration were obtained to be forged, or knowing the probate or letters of administration to have been obtained by any false oath, affirmation, or affidavit; or

Attempt.

(b) attempts to do any such thing as aforesaid. R.S., c. 146, s. 478.

Penalty.

**479.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who

Counter-  
feiting  
stamp.

(a) fraudulently counterfeits any stamp, whether impressed or adhesive, used for the purposes of revenue by the Government of the United Kingdom or of  
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Canada, or by the Government of any province of Canada, or of any possession or colony of His Majesty, or by any foreign prince or state; or

- (b) knowingly has in his possession, sells or exposes for sale, or utters or uses any such counterfeit stamp; or Counterfeit stamp.
- (c) without lawful excuse, the proof whereof shall lie on him, makes, or has knowingly in his possession, any die or instrument capable of making the impression of any such stamp as aforesaid, or any part thereof; or Making, etc., die for same.
- (d) fraudulently cuts, tears or in any way removes from any material any such stamp, with intent that any use should be made of such stamp or of any part thereof; or Removing stamp.
- (e) fraudulently mutilates any such stamp with intent that any use should be made of any part of such stamp; or Mutilating stamp.
- (f) fraudulently fixes or places upon any material, or upon any stamp aforesaid, any stamp or part of a stamp which, whether fraudulently or not, has been cut, torn, or in any other way removed from any other material or out of or from any other stamp; or Using stamp fraudulently.
- (g) fraudulently erases, or otherwise, either really or apparently, removes, from any stamped material any name, sum, date, or other matter or thing thereon written, with the intent that any use should be made of the stamp upon such material; or Erasing marks on stamped material.
- (h) knowingly and without lawful excuse the proof whereof shall lie upon him has in his possession any stamp or part of a stamp which has been fraudulently cut, torn, or otherwise removed from any material, or any stamp which has been fraudulently mutilated, or any stamped material out of which any name, sum, date, or other matter or thing has been fraudulently erased or otherwise, either really or apparently, removed; or Possessing mutilated or erased stamp.
- (i) without lawful authority makes or counterfeits any mark or brand used by the Government of the United Kingdom of Great Britain and Ireland, the Government of Canada, or the Government of any province of Canada, or by any department or officer of any such Government for any purpose in connection with the service or business of such Government, or the impression of any such mark or brand, or sells or exposes for sale or has in his possession any goods having thereon a counterfeit of any such mark or brand knowing the same to be a counterfeit, or affixes any such mark or brand to any goods required by law to

Counterfeiting Government mark or brand.

be marked or branded other than those to which such mark or brand was originally affixed. R.S., c. 146, s. 479; 1925, c. 38, s. 11.

Penalty.

**480.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who

Injuring  
register of  
births and  
deaths.

(a) unlawfully destroys, defaces or injures any register of births, baptisms, marriages, deaths or burials required or authorized by law to be kept in Canada, or any part thereof, or any copy of such register, or any part thereof required by law to be transmitted to any registrar or other officer; or

Making  
false entry  
in same.

(b) unlawfully inserts in any such register, or any such copy thereof, any entry, known by him to be false, of any matter relating to any birth, baptism, marriage, death or burial, or erases from any such register or document any material part thereof. R.S., c. 146, s. 480.

Penalty.

**481.** Every one is guilty of an indictable offence and liable to ten years' imprisonment who,

False cer-  
tificate  
of copy.

(a) being a person authorized or required by law to give any certified copy of any entry in any register in the last preceding section mentioned, certifies any writing to be a true copy or extract, knowing it to be false, or knowingly utters any such certificate; or

Fraudu-  
lently con-  
cealing  
register.

(b) unlawfully and for any fraudulent purpose takes any such register or certified copy from its place of deposit or conceals it; or

Permitting  
conceal-  
ment.

(c) being a person having the custody of any such register or certified copy, permits it to be so taken or concealed. R.S., c. 146, s. 481.

Penalty.

**482.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who

False cer-  
tificate of  
entry.

(a) being by law required to certify that any entry has been made in any such register makes such certificate knowing that such entry has not been made; or

Of par-  
ticulars.

(b) being by law required to make a certificate or declaration concerning any particular required for the purpose of making entries in such register, knowingly makes such certificate or declaration containing a falsehood; or

Uttering  
false copy  
of record.

(c) being an officer having custody of the records of any court, or being the deputy of any such officer, wilfully utters a false copy or certificate of any record; or

False sig-  
nature.

(d) not being such officer or deputy fraudulently signs or certifies any copy of certificate of any record, or any copy of any certificate, as if he were such officer or deputy. R.S., c. 146, s. 482.

**483.** Every one is guilty of an indictable offence and Penalty.  
liable to two years' imprisonment who

(a) being an officer required or authorized by law to Knowingly  
certifying  
false copy  
by official.  
make or issue any certified copy of any document or of  
any extract from any document, wilfully certifies, as a  
true copy of any document or of any extract from any  
such document, any writing which he knows to be un-  
true in any material particular; or

(b) not being such officer as aforesaid fraudulently signs False sig-  
nature.  
or certifies any copy of any document, or of any ex-  
tract from any document, as if he were such officer.

R.S., c. 146, s. 483.

**484.** Every one is guilty of an indictable offence and Penalty  
liable to fourteen years' imprisonment who, with intent to  
defraud,

(a) makes any untrue entry or any alteration in any False  
entry in  
Govern-  
ment ac-  
count  
books.  
book of account kept by the Government of Canada,  
or of any province of Canada, or by any bank for  
any such Government, in which books are kept the ac-  
counts of the owners of any stock, annuity or other  
public fund transferable for the time being in any such  
books, or who, in any manner, wilfully falsifies any of  
the said books; or

(b) makes any transfer of any share or interest of or in Transfer  
by person  
other than  
owner.  
any stock, annuity or public fund, transferable for the  
time being at any of the said banks, in the name of  
any person other than the owner of such share or in-  
terest. R.S., c. 146, s. 484.

**485.** Every one is guilty of an indictable offence and False  
dividend  
warrants.  
liable to seven years' imprisonment who, being in the em-  
ployment of the Government of Canada, or of any province  
of Canada, or of any bank in which any books of account  
mentioned in the last preceding section are kept, with in-  
tent to defraud, makes out or delivers any dividend war-  
rant, or any warrant for the payment of any annuity, in-  
terest or money payable at any of the said banks, for an  
amount greater or less than that to which the person on  
whose account such warrant is made out is entitled. R.S.,  
c. 146, s. 485.

*Forgery of Trade Marks and Fraudulent Marking of  
Merchandise.*

**486.** Every one is deemed to forge a trade mark who Forgery.  
either

(a) without the assent of the proprietor of the trade Simulating  
trade  
mark.  
mark makes that trade mark or a mark so nearly re-  
sembling it as to be calculated to deceive; or

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(b)  
R.S., 1927

Falsifying  
trade  
mark.

(b) falsifies any genuine trade mark, whether by alteration, addition, effacement or otherwise.

Forged  
trade  
mark.

2. Any trade mark or mark so made or falsified is, in this Part, referred to as a forged trade mark. R.S., c. 146, s. 486.

Applying  
trade  
marks.  
To goods.  
To cover-  
ing for  
goods.

**487.** Every one is deemed to apply a trade mark, or mark, or trade description to goods who

(a) applies it to the goods themselves; or

(b) applies it to any covering, label, reel, or other thing in or with which the goods are sold or exposed or had in possession for any purpose of sale, trade or manufacture; or

By placing  
goods in  
covering.

(c) places, incloses or annexes any goods which are sold or exposed or had in possession for any purpose of sale, trade or manufacture in, with or to any covering, label, reel, or other thing to which a trade mark or mark or trade description has been applied; or

By fraudu-  
lent use  
of trade  
mark.

(d) uses a trade mark or mark or trade description in any manner calculated to lead to the belief that the goods in connection with which it is used are designated or described by that trade mark or mark or trade description.

By connect-  
ing with  
other  
article.

2. A trade mark or mark or trade description is deemed to be applied whether it is woven, impressed or otherwise worked into, or annexed or affixed to, the goods, or to any covering, label, reel, or other thing.

Falsely  
applying.

3. Every one is deemed to falsely apply to goods a trade mark or mark who, without the assent of the proprietor of the trade mark, applies such trade mark, or a mark so nearly resembling it as to be calculated to deceive. R.S., c. 146, s. 487.

Forging,  
etc., trade  
marks.

**488.** Every one is guilty of an indictable offence who, with intent to defraud,

(a) forges any trade mark; or

(b) falsely applies to any goods any trade mark, or any mark so nearly resembling a trade mark as to be calculated to deceive; or

(c) makes any die, block, machine or other instrument, for the purpose of forging, or being used for forging, a trade mark; or

(d) applies any false trade description to goods; or

(e) disposes of, or has in his possession, any die, block, machine, or other instrument, for the purpose of forging a trade mark; or

(f) causes any of such things to be done.

Burden  
of proof.

2. On any prosecution for forging a trade mark the burden of proof of the assent of the proprietor shall lie on the defendant. R.S., c. 146, s. 488.

**489.** Every one is guilty of an indictable offence who sells or exposes, or has in his possession, for sale, or any purpose of trade or manufacture, any goods or things to which any forged trade mark or false trade description is applied, or to which any trade mark, or mark so nearly resembling a trade mark as to be calculated to deceive, is falsely applied, as the case may be, unless he proves

Selling  
goods  
falsely  
marked.

- (a) that having taken all reasonable precaution against committing such an offence he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade mark, mark or trade description; and
- (b) that on demand made by or on behalf of the prosecutor he gave all the information in his power with respect to the persons from whom he obtained such goods or things; and
- (c) that otherwise he had acted innocently. R.S., c. 146, s. 489.

Saving.

**490.** Every one is guilty of an indictable offence who

- (a) wilfully defaces, conceals or removes the trade mark duly registered, or name of another person upon any cask, keg, bottle, siphon, vessel, can, case or other package, unless such cask, keg, bottle, siphon, vessel, can, case or other package has been purchased from such other person, if the same shall have been so defaced, concealed or removed without the consent of, and with intention to defraud such other person;
- (b) being a manufacturer, dealer or trader, or bottler, trades or traffics in any bottle or siphon which has upon it the trade mark duly registered or name of another person, without the written consent of such other person, or without such consent fills such bottle or siphon with any beverage for the purpose of sale or traffic.

Defacing  
trade  
mark.

Using  
trade  
marks of  
others by  
trafficking  
in bottles.

2. The using by any manufacturer, dealer or trader or bottler, other than such other person, of any bottle or siphon for the sale therein of any beverage, or the having by any such manufacturer, dealer, trader or bottler upon any bottle or siphon such trade mark or name of such other person, or the buying, selling or trafficking in any such bottle or siphon without such written consent of such other person, or the fact that any junk dealer has in his possession any bottle or siphon having upon it such trade mark or name without such written consent, shall be *prima facie* evidence of trading or trafficking within the meaning of paragraph (b) of this section. R.S., c. 146, s. 490.

Using  
bottles.

*Prima facie*  
evidence.

Penalty  
where none  
specified.

**491.** Every one guilty of an offence defined in this Part in respect to trade marks or names, or in respect to trade descriptions or false trade descriptions for which no penalty is in this Part otherwise provided, is liable,

On indictment.

(a) on conviction on indictment, to two years' imprisonment, with or without hard labour, or to a fine, or to both imprisonment and fine; and

On summary conviction.

(b) on summary conviction, to four months' imprisonment, with or without hard labour, or to a fine not exceeding one hundred dollars; and, in case of a second or subsequent conviction, to six months' imprisonment, with or without hard labour, or to a fine not exceeding two hundred and fifty dollars.

Forfeiture.

2. In any case, every chattel, article, instrument or thing, by means of, or in relation to which, the offence has been committed shall be forfeited. R.S., c. 146, s. 491.

Falsely  
represent-  
ing that  
goods are  
manufac-  
tured for  
His  
Majesty.

**492.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding one hundred dollars, who falsely represents that any goods are made by a person holding a royal warrant, or for the service of His Majesty or any of the royal family, or any government department of the United Kingdom or of Canada. R.S., c. 146, s. 492.

Unlawful  
importa-  
tion of  
goods  
liable to  
forfeiture.

**493.** Every one is guilty of an offence and liable, on summary conviction, to a penalty of not more than five hundred dollars nor less than two hundred dollars who imports or attempts to import any goods which, if sold, would be forfeited under the provisions of this Part, or any goods manufactured in any foreign state or country which bear any name or trade mark which is or purports to be the name or trade mark of any manufacturer, dealer or trader in the United Kingdom or in Canada, unless such name or trade mark is accompanied by a definite indication of the foreign state or country in which the goods were made or produced; and such goods shall be forfeited. R.S., c. 146, s. 493.

Making  
instruments  
for forg-  
ing trade  
marks.

**494.** Any one who is charged with making any die, block, machine or other instrument for the purpose of forging, or being used for forging, a trade mark, or with falsely applying to goods any trade mark, or any mark, so nearly resembling a trade mark as to be calculated to deceive, or with applying to goods any false trade description, or causing any of the things in this section mentioned to be done, and proves

Defence.

(a) that in the ordinary course of his business he is employed, on behalf of other persons, to make dies, blocks, machines or other instruments for making or being used



used in making trade marks, or, as the case may be, to apply marks or descriptions to goods, and that in the case which is the subject of the charge he was so employed by some person resident in Canada, and was not interested in the goods by way of profit or commission dependent on the sale of such goods; and

(b) that he took reasonable precaution against committing the offence charged; and

(c) that he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade mark, mark or trade description; and

(d) that he gave to the prosecutor all the information in his power with respect to the person by or on whose behalf the trade mark, mark or description was applied;

shall be discharged from the prosecution but is liable to pay the costs incurred by the prosecutor, unless he has given due notice to him that he will rely on the above defence. R.S., c. 146, s. 494. Discharge.

**495.** No servant of a master, resident in Canada, who *bona fide* acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, gives full information as to his master, is liable to any prosecution or punishment for any offence defined in this part. R.S., c. 146, s. 495. Servant not liable.

#### *Offences connected with Trade and Breaches of Contract.*

**496.** A conspiracy in restraint of trade is an agreement between two or more persons to do or procure to be done any unlawful act in restraint of trade. R.S., c. 146, s. 496. Conspiracy in restraint of trade.

**497.** The purposes of a trade union are not, by reason merely that they are in restraint of trade, unlawful within the meaning of the last preceding section. R.S., c. 146, s. 497. Acts in restraint not unlawful.

**498.** Every one is guilty of an indictable offence and liable to a penalty not exceeding four thousand dollars and not less than two hundred dollars, or to two years' imprisonment, or, if a corporation, is liable to a penalty not exceeding ten thousand dollars, and not less than one thousand dollars, who conspires, combines, agrees or arranges with any other person, or with any railway, steamship, steamboat or transportation company, Penalty for conspiracy.

(a) to unduly limit the facilities for transporting, producing, manufacturing, supplying, storing or dealing in any article or commodity which may be a subject of trade or commerce; or To limit transportation facilities.

52½

819

(b)

R.S., 1927.

Restrain  
commerce.

(b) to restrain or injure trade or commerce in relation to any such article or commodity; or

Lessen  
manufac-  
turing.

(c) to unduly prevent, limit, or lessen the manufacture or production of any such article or commodity, or to unreasonably enhance the price thereof; or

Lessen com-  
petition.

(d) to unduly prevent or lessen competition in the production, manufacture, purchase, barter, sale, transportation or supply of any such article or commodity, or in the price of insurance upon person or property.

Saving.

2. Nothing in this section shall be construed to apply to combinations of workmen or employees for their own reasonable protection as such workmen or employees. R.S., c. 146, s. 498.

Penalty.

**499.** Every one is guilty of an offence punishable on indictment or on summary conviction before two justices and liable on conviction to a penalty not exceeding one hundred dollars or to three months' imprisonment, with or without hard labour, who

Wilfully  
breaking  
contract  
with dan-  
ger to life  
or pro-  
perty.

(a) wilfully breaks any contract made by him knowing, or having reasonable cause to believe, that the probable consequences of his so doing, either alone or in combination with others, will be to endanger human life, or to cause serious bodily injury, or to expose valuable property, whether real or personal, to destruction or serious injury; or

Wilfully  
breaking  
contract  
connected  
with supply  
of power,  
light,  
gas or  
water.

(b) being bound, agreeing or assuming, under any contract made by him with any municipal corporation or authority, or with any company, to supply any city or any other place, or any part thereof, with electric light or power, gas or water, wilfully breaks such contract knowing, or having reasonable cause to believe, that the probable consequences of his so doing, either alone or in combination with others will be to deprive the inhabitants of that city or place, or part thereof, wholly or to a great extent, of their supply of power, light, gas or water; or

Wilfully  
breaking  
contract  
with rail-  
way under  
agreement  
to carry  
mails.

(c) being bound, agreeing or assuming, under any contract made by him with a railway company, or with His Majesty, or any one on behalf of His Majesty, in connection with a government railway on which His Majesty's mails, or passengers or freight are carried, to carry His Majesty's mails, or to carry passengers or freight, wilfully breaks such contract knowing, or having reason to believe that the probable consequences of his so doing, either alone or in combination with others, will be to delay or prevent the running of any locomotive engine, or tender, or freight or passenger train or car, on the railway.

2. Every municipal corporation or authority or company, bound, agreeing or assuming to supply any city, or any other place, or any part thereof, with electric light or power, gas or water, which wilfully breaks any contract made by such municipal corporation, authority, or company, knowing or having reason to believe that the probable consequences of its so doing will be to deprive the inhabitants of that city or place or part thereof wholly, or to a great extent, of their supply of electric light or power, gas or water, is liable to a penalty not exceeding one thousand dollars.

Municipality or company supplying light, power, gas or water wilfully breaking contract.

3. Every railway company, bound, agreeing or assuming to carry His Majesty's mails, or to carry passengers or freight, which wilfully breaks any contract made by such railway company, knowing or having reason to believe that the probable consequences of so doing will be to delay or prevent the running of any locomotive engine or tender, or freight or passenger train or car on the railway, is liable to a penalty not exceeding one hundred dollars.

Railway company breaking contract.

4. It is not material whether any offence defined in this section is committed from malice conceived against the person, corporation, authority or company with which the contract is made or otherwise. R.S., c. 146, s. 499; 1908, c. 18, s. 7.

Malice not an element.

**500.** Every such municipal corporation, authority, or company, shall cause to be posted up at the electrical works, gas works, or water-works, or railway stations, as the case may be, belonging to such corporation, authority or company, a printed copy of this and the preceding section in some conspicuous place, where the same may be conveniently read by the public; and as often as such copy becomes defaced, obliterated or destroyed shall cause it to be renewed with all reasonable despatch.

This and preceding section to be posted up.

2. Every such municipal corporation, authority or company which makes default in complying with such duty is liable to a penalty not exceeding twenty dollars for every day during which such default continues.

Penalty for default.

3. Every person unlawfully injuring, defacing or covering up any such copy so posted up is liable on summary conviction to a penalty not exceeding ten dollars. R.S., c. 146, s. 500.

Defacing same.

**501.** Every one is guilty of an offence punishable, at the option of the accused, on indictment or on summary conviction before two justices and liable on conviction to a fine not exceeding one hundred dollars, or to three months' imprisonment with or without hard labour, who, wrongfully and without lawful authority, with a view to compel

Intimidation.

any other person to abstain from doing anything which he has a lawful right to do, or to do anything from which he has a lawful right to abstain,

- By violence. (a) uses violence to such other person, or his wife or children, or injures his property; or
- By threats (b) intimidates such other person, or his wife or children, by threats of using violence to him, her or any of them, or of injuring his property; or
- By following. (c) persistently follows such other person about from place to place; or
- By hiding property. (d) hides any tools, clothes or other property owned or used by such other person, or deprives him of, or hinders him in, the use thereof; or
- By following disorderly. (e) with one or more other persons, follows such other person, in a disorderly manner, in or through any street or road; or
- By watching house. (f) besets or watches the house or other place where such other person resides or works, or carries on business or happens to be. R.S., c. 146, s. 501.

Intimidation to prevent working at any trade.

**502.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, in pursuance of any unlawful combination or conspiracy to raise the rate of wages, or of any unlawful combination or conspiracy respecting any trade, business or manufacture, or respecting any person concerned or employed therein, unlawfully assaults any person, or, in pursuance of any such combination or conspiracy, uses any violence or threat of violence to any person, with intent to hinder him from working or being employed at such trade, business or manufacture.

Penalty.

2. Every one is guilty of an offence punishable on indictment, or on summary conviction before two justices, and liable on conviction to a fine not exceeding one hundred dollars, or to three months' imprisonment with or without hard labour, who

Using violence to hinder buying grain, etc.

(a) beats or uses any violence or threat of violence to any person with intent to deter or hinder him from buying, selling or otherwise disposing of any wheat or other grain, flour, meal, malt or potatoes, or other produce or goods, in any market or other place; or

To prevent conveyance of same.

(b) beats or uses any such violence or threat to any person having the charge or care of any wheat or other grain, flour, meal, malt or potatoes, while on the way to or from any city, market, town or other place with intent to stop the conveyance of the same; or

- (c) by force or threats of violence, or by any form of intimidation whatsoever, hinders or prevents, or attempts to hinder or prevent any seaman, stevedore, ship carpenter, ship labourer or other person employed to work at or on board any ship or vessel, or to do any work connected with the loading or unloading thereof, from working at or exercising any lawful trade, business, calling or occupation in or for which he is so employed; or with intent so to hinder or prevent, besets or watches such ship, vessel or employee; or
- (d) beats or uses any violence to, or makes any threat of violence against, any such person with intent to hinder or prevent him from working at or exercising such trade, business, calling or occupation or on account of his having worked at or exercised the same.
- R.S., c. 146, ss. 502 and 503.

By violence hinders seamen, etc., exercising lawful calling.

Using violence with intent to hinder.

**503.** Every person is guilty of an indictable offence and liable to a fine not exceeding four hundred dollars, or to two years' imprisonment, or to both, who, before or at the time of the public sale of any Indian lands, or public lands of Canada, or of any province of Canada, by intimidation, or illegal combination, hinders or prevents, or attempts to hinder or prevent, any person from bidding upon or purchasing any lands so offered for sale. R.S., c. 146, s. 504.

Intimidation to prevent bidding on public lands.

#### *Secret Commissions.*

**504.** In this section, unless the context otherwise requires, Definitions.

- (a) "agent" means any person employed by or acting for another, and includes a person serving under the Crown or under any municipal or other corporation; "Agent."
- (b) "consideration" includes valuable consideration of any kind; "Consideration."
- (c) "principal" includes an employer. "Principal."

2. Every one is guilty of an offence and liable, upon conviction on indictment, to two years' imprisonment, or to a fine not exceeding two thousand five hundred dollars, or to both, and, upon summary conviction, to imprisonment for six months, with or without hard labour, or to a fine not exceeding one hundred dollars, or to both, who

Penalty.

- (a) being an agent, corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gift or consideration as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act relating to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person with relation to his principal's affairs or business; or

For an agent accepting gifts, etc., for a reward.

For offering reward, etc., to an agent.

(b) corruptly gives or agrees to give or offers any gift or consideration to any agent as an inducement or reward or consideration to such agent for doing or forbearing to do, or for having done or forborne to do, any act relating to his principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person with relation to his principal's affairs or business; or

For false statement given to or used by an agent.

(c) knowingly gives to any agent, or, being an agent, knowingly uses with intent to deceive his principal, any receipt, account, or other document in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular, and which, to his knowledge, is intended to mislead the principal.

Liability of party privy to offences.

3. Every person who is a party or knowingly privy to any offence under this section shall be guilty of such offence and shall be liable upon conviction to the punishment hereinbefore provided for by this section.

4. This section shall not apply to any person liable to punishment under section four hundred and twelve, subsection two of this Act. 1909, c. 33, ss. 2 and 3; 1920, c. 43, s. 9.

#### *Trading Stamps.*

Issuing trading stamps.

**505.** Every one is guilty of an indictable offence and liable to one year's imprisonment, and to a fine not exceeding five hundred dollars, who, by himself or his employee or agent, directly or indirectly, issues, gives, sells or otherwise disposes of, or offers to issue, give, sell or otherwise dispose of trading stamps to a merchant or dealer in goods for use in his business.

Giving to a purchaser.

2. Every one is guilty of an indictable offence and liable to six months' imprisonment, and to a fine not exceeding two hundred dollars, who, being a merchant or dealer in goods, by himself or his employee or agent, directly or indirectly, gives or in any way disposes of, or offers to give or in any way dispose of, trading stamps to a purchaser from him of any such goods.

Executive officers of offending company liable.

3. Any executive officer of a corporation or company guilty of an offence under subsections one and two of this section who in any way aids or abets in or counsels or procures the commission of such offence, is guilty of an indictable offence and liable on conviction to the punishment provided by the said subsections respectively.

Receiving trading stamps.

4. Every one is guilty of an offence and liable, on summary conviction, to a fine not exceeding twenty dollars, who, being a purchaser of goods from a merchant or dealer in goods, directly or indirectly receives or takes trading stamps from the vendor of such goods or his employee or agent. R.S., c. 146, ss. 505, 506, 507 and 508.

*Copyright.*

**506.** Any person who, without the written consent of the owner of the copyright or of his legal representative, knowingly performs or causes to be performed in public and for private profit the whole or any part, constituting an infringement, of any dramatic or operatic work or musical composition in which copyright subsists in Canada, shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding two hundred and fifty dollars, or, in the case of a second or subsequent offence, either to such fine or to imprisonment for a term not exceeding two months, or to both.

Performing  
dramatic,  
etc.,  
copyright  
works  
without  
consent of  
author.

2. Any person who makes or causes to be made any change in or suppression of the title, or the name of the author, of any dramatic or operatic work or musical composition in which copyright subsists in Canada, or who makes or causes to be made any change in such work or composition itself without the written consent of the author or of his legal representative, in order that the same may be performed in whole or in part in public for private profit, shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding five hundred dollars, or, in the case of a second or subsequent offence, either to such fine or to imprisonment for a term not exceeding four months, or to both. 1915, c. 12, s. 4.

Unauthor-  
ized chang-  
ing title,  
etc., of  
copy-  
righted  
drama, etc.,  
to perform  
same.

*Insurance Offences.*

**507.** Every one shall be guilty of an indictable offence who, within Canada, except on behalf of or as agent for a company, thereunto duly licensed by the Minister of Finance, or on behalf of or as agent for or as a member of an association of individuals formed upon the plan known as Lloyd's or of an association of persons formed for the purpose of inter-insurance and so licensed, solicits or accepts any insurance risk, or issues or delivers any interim receipt or policy of insurance, or grants in consideration of any premium or payment any annuity on a life or lives, or collects or receives any premium for insurance, or carries on any business of insurance, or inspects any risk, or adjusts any loss, or prosecutes or maintains any suit, action or proceeding, or files any claim in insolvency relating to such business, or receives directly or indirectly any remuneration for doing any of the aforesaid acts.

Soliciting  
or carrying  
on business  
of insurance  
forbidden  
except as  
permitted  
under  
proviso.

2. Any one convicted of any such offence shall for a first offence be liable to a penalty of not more than fifty dollars nor less than twenty dollars, and, in default of payment, to imprisonment with or without hard labour for a term of not more than three months nor less than one month, and

Penalty.

for a second or any subsequent offence to a penalty of not more than one hundred dollars nor less than fifty dollars, and in addition thereto to imprisonment with hard labour for a period of not more than six months nor less than three months.

Limitation.

3. All information or complaints for any of the aforesaid offences shall be laid or made within one year after the commission of the offence.

Disposal of fine.

4. One-half of any pecuniary penalty mentioned in this section shall, when recovered, belong to His Majesty and the other half thereof to the informer.

Exception.

5. Nothing in this section contained shall be deemed to prohibit or affect or to impose any penalty for doing any of the acts in this section described

- (a) by or on behalf of a company incorporated under the laws of any province of Canada for the purpose of carrying on the business of insurance;
- (b) by or on behalf of any society or association of persons thereunto specially authorized by the Minister of Finance or the Treasury Board;
- (c) in respect of any policy or risk of life insurance issued or undertaken on or before the thirtieth day of March, one thousand eight hundred and seventy-eight, by or on behalf of any company which has not since the last mentioned date received a license from the Minister of Finance;
- (d) in respect of any policy of life insurance issued by an unlicensed company to a person not resident in Canada at the time of the issue of such policy;
- (e) in respect of the insurance of property situated in Canada with any British or foreign unlicensed insurance company or underwriters, or with persons who reciprocally insure for protection and not for profit, or the inspection of the property so insured, or the adjustment of any loss incurred in respect thereof, if the insurance is effected outside of Canada without any solicitation whatsoever directly or indirectly on the part of the company, underwriters or persons by which or by whom the insurance is made;
- (f) solely in respect of marine or inland marine insurance.
- (g) in respect of any contract entered into or any certificate of membership or policy of insurance issued, before the twentieth day of July, one thousand eight hundred and eighty-five, by any assessment life insurance company. 1917, c. 26, s. 1.

Offences.

**508.** Any insurance company, or any officer, agent or representative thereof, who



- (a) makes or permits any distinction or discrimination in favour of individuals between the insured of the same class and equal expectation of life in the amount of premiums charged or in the dividends payable upon any policy of life insurance issued by or on behalf of the company; or Discrimination.
- (b) makes or assumes to make any stipulation or agreement which is intended to operate as a part of any insurance contract to which the company is or is to become a party, whether in respect of the amount, terms or conditions of the insurance, the premium to be paid or otherwise, except such as is plainly expressed in the policy issued in the case; or Agreement outside of terms of policy.
- (c) pays, allows or gives, or offers to pay, allow or give, directly or indirectly, as inducement to insure, any rebate of the premium stipulated by the policy to be payable, or any special favour or advantage in the dividends or other benefits to accrue thereon, or any advantage by way of local or advisory directorship unless for actual service *bona fide* performed, or any paid employment or contract for service of any kind or any inducement whatever intended to be in the nature of a rebate of premium; or Rebates, special favours or other benefits.
- (d) gives, sells or purchases as such inducement or in connection with such insurance any stock, bonds or other securities of any insurance company, or other corporation, association or partnership; and any person who knowingly receives as an inducement to insure, any rebate of premium or any such special favour, advantage or inducement as aforesaid; Offering stocks, bonds, etc., as inducements.

shall for a first offence be liable to a penalty of double the amount of the annual premium chargeable upon the application or policy in respect of which the offence is committed, such penalty not to be less than one hundred dollars, and for a second or subsequent offence to a penalty of double the amount of such annual premium, the latter penalty not to be less than two hundred and fifty dollars. Penalty.

2. Moreover every director, manager or other officer of any insurance company who knowingly consents to or permits the violation of any of the provisions of this section by any agent, officer, employee or servant of the company shall be liable to a penalty of five hundred dollars. Directors and officers, consenting.

3. The penalties provided for in this section may be recovered either upon summary conviction under Part XV of this Act, or in any court of competent civil jurisdiction at the suit of any person suing therefor as well for His Majesty as for himself; one-half of any such penalty when Recovery.

recovered to be paid into the Consolidated Revenue Fund and the other half to belong to the informer or person at whose suit the same is recovered.

No indem-  
nification.

4. No director, manager, agent, officer or servant of any insurance company shall be indemnified, either in whole or in part, from the funds of the company for any penalty or costs which he may be adjudged to pay on account of any offence committed against this section. 1917, c. 26, s. 1.

## PART VIII.

### WILFUL AND FORBIDDEN ACTS IN RESPECT OF CERTAIN PROPERTY.

#### *Interpretation.*

Wilfully  
defined.

**509.** Every one who causes any event by an act which he knew would probably cause it, being reckless whether such event happens or not, is deemed for the purposes of this Part to have caused it wilfully. R.S., c. 146, s. 509.

#### *Mischief.*

Penalty.

**510.** Every one is guilty of the indictable offence of mischief who wilfully destroys or damages any of the property in this section mentioned, and is liable to the punishment in this section specified, that is to say:—

Damage  
to house,  
ship or  
boat.

(a) To imprisonment for life if the object damaged is

Bank,  
dyke or  
sea-wall.

(i) a dwelling-house, ship or boat, and the damage is caused by an explosion, and any person is in such dwelling-house, ship or boat; and the damage causes actual danger to life, or

(ii) a bank, dyke or wall of the sea, or of any inland water, natural or artificial, or any work in, on, or belonging to any port, harbour, dock or inland water, natural or artificial, and the damage causes actual danger of inundation, or

Bridge,  
viaduct or  
aqueduct.

(iii) any bridge whether over any stream of water or not, or any viaduct, or aqueduct, over or under which bridge, viaduct or aqueduct any highway, railway or canal passes, and the damage is done with intent to render and does render such bridge, viaduct or aqueduct, or the highway, railway or canal passing over or under the same, or any part thereof, dangerous or impassable, or

Railway.

(iv) a railway damaged with the intent of rendering and so as to render such railway dangerous or impassable;

Penalty.

(b) To fourteen years' imprisonment if the object damaged is

- (i) a ship in distress or wrecked, or any goods, merchandise or articles belonging thereto, or Damage to ship.
- (ii) any cattle or the young thereof, and the damage is caused by killing, maiming, poisoning or wounding; To cattle.
- (c) To seven years' imprisonment if the object damaged is Penalty.
- (i) a ship damaged with intent to destroy or render useless such ship, or Damage to ship.
- (ii) a signal or mark used for purposes of navigation, or Signal.
- (iii) a bank, dyke or wall of the sea or of any inland water or canal, or any materials fixed in the ground for securing the same, or any work belonging to any port, harbour, dock, or inland water or canal, or Bank, dyke or wall.
- (iv) a navigable river or canal damaged by interference with the flood gates or sluices thereof or otherwise, with intent and so as to obstruct the navigation thereof, or River or canal.
- (v) the flood gate or sluice of any private water with intent to take or destroy, or so as to cause the loss or destruction of, the fish therein, or Flood gate or sluice.
- (vi) a private fishery or salmon river damaged by lime or other noxious material put into the water thereof with intent to destroy fish therein or to be put therein, or Private fishery.
- (vii) the flood gate of any mill-pond, reservoir or pool cut through or destroyed, or Flood gate.
- (viii) goods in process of manufacture damaged with intent to render them useless, or Goods.
- (ix) agricultural or manufacturing machines, or manufacturing implements, damaged with intent to render them useless, or Machines.
- (x) a hop-bind growing in a plantation of hops, or a grape vine growing in a vineyard; Hop-bind.
- (d) To five years' imprisonment if the object damaged is Penalty.
- (i) a tree, shrub or underwood growing in a park, pleasure ground or garden, or in any land adjoining or belonging to a dwelling-house, injured to an extent exceeding in value five dollars, or Damaging tree or shrub.
- (ii) a post letter bag or post letter, or Letter bag, etc.
- (iii) any street or other letter box or any receptacle, article, machine or device established or used by authority of the Postmaster General in connection with the business of the Post Office Department, or Damages to post-office boxes.
- (iv)

- Mailable matter.** (iv) any parcel sent by parcel post, any packet or package of patterns or samples of merchandise or goods, or of seeds, cuttings, bulbs, roots, scions or grafts, or any printed vote or proceeding, newspaper, printed paper or book or other mailable matter, not being a post letter, sent by mail, or
- Any other property by night.** (v) any property, real or personal, corporeal or incorporeal, for damage to which no special punishment is by law prescribed, damaged by night to the value of twenty dollars;
- Penalty.** (e) To two years' imprisonment if the object damaged is any property, real or personal, corporeal or incorporeal, for damage to which no special punishment is by law prescribed, damaged to the value of twenty dollars. R.S., c. 146, s. 510; 1913, c. 13, s. 19.
- Any other property.**

### Arson.

**Offence.** **511.** Every one is guilty of the indictable offence of arson and liable to imprisonment for life who wilfully sets fire to any building or structure, whether such building or structure is completed or not, or to any stack of vegetable produce or of mineral or vegetable fuel, or to any mine or well of oil or other combustible substance, or to any ship or vessel, whether completed or not, or to any timber or materials placed in any shipyard for building or repairing or fitting out any ship or to any of His Majesty's stores or munitions of war.

**Penalty.**

**Fraudulently burning any chattel over \$200 in value.** 2. Every one is guilty of an indictable offence and liable to five years' imprisonment who, wilfully and for any fraudulent purpose, burns any chattel having a greater value than two hundred dollars. R.S., c. 146, s. 511; 1921, c. 25, s. 9.

**Attempt to commit arson.** **512.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who wilfully attempts to set fire to anything mentioned in the last preceding section, or who wilfully sets fire to any substance so situated that he knows that anything mentioned in the last preceding section is likely to catch fire therefrom. R.S., c. 146, s. 512.

### Other Fires.

**Penalty.** **513.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who wilfully sets fire to

**Crop.** (a) any crop, whether standing or cut down, or any wood, forest, coppice or plantation, or any heath, gorse, furze or fern; or

(b) any tree, lumber, timber, logs, or floats, boom, dam <sup>Trees, etc.,</sup>  
or slide, and thereby injures or destroys the same. <sup>dam or</sup>  
R.S., c. 146, s. 513. <sup>slide.</sup>

**514.** Every one is guilty of an indictable offence and <sup>Attempt.</sup>  
liable to seven years' imprisonment who wilfully attempts  
to set fire to anything mentioned in the last preceding sec-  
tion, or who wilfully sets fire to any substance so situated  
that he knows that anything mentioned in the last pre-  
ceding section is likely to catch fire therefrom. R.S., c. 146,  
s. 514.

**515.** Every one is guilty of an indictable offence and  
liable to two years' imprisonment, who

(a) by such negligence as shows him to be reckless or <sup>Recklessly</sup>  
wantonly regardless of consequences, or in violation of <sup>setting fire</sup>  
a provincial or municipal law of the locality, sets fire <sup>to forests.</sup>  
to any forest, tree, manufactured lumber, square tim-  
ber, logs or floats, boom, dam or slide, on the Crown  
domain, or on land leased or lawfully held for the pur-  
pose of cutting timber, or on private property on any  
creek or river, or rollway, beach or wharf, so that the  
same is injured or destroyed;

(b) by negligence causes any fire which occasions loss of <sup>Negligently</sup>  
life or loss of property. <sup>causing</sup>  
<sup>fire.</sup>

2. The person owning, occupying or controlling the <sup>Liability</sup>  
premises in which a fire occurs, which occasions loss of life <sup>in certain</sup>  
or loss of property, or on which such fire originates, shall <sup>cases.</sup>  
be deemed to have caused the fire through negligence if such  
person has failed to obey the requirements of any law in-  
tended to prevent fires or which requires apparatus for the  
extinguishment of fires or to facilitate the escape of per-  
sons in the event of fire, if the jury finds that such fire, or  
the loss of life, or the whole or any substantial portion of  
the loss of property, would not have occurred if such law  
had been complied with.

3. The magistrate investigating any such charge may, in <sup>May be</sup>  
his discretion, if the consequences have not been serious, <sup>tried sum-</sup>  
dispose of the matter summarily, without sending the <sup>marily.</sup>  
offender for trial, by imposing a fine not exceeding fifty  
dollars, and in default of payment by the committal of the  
offender to prison for any term not exceeding six months,  
with or without hard labour.

4. When any Dominion, provincial or municipal fire <sup>Refusing</sup>  
officer or authority recommends to the owner, lessee or other <sup>to make</sup>  
person controlling or operating any building, structure, <sup>alterations,</sup>  
factory, shipyard, vessel, dock, wharf, pier, sawmill, or yard <sup>remove</sup>  
in which logs or lumber are stored or held, that any reason- <sup>materials</sup>  
able change, alteration or addition should be made in or <sup>or supply</sup>  
to such building, structure, factory, shipyard, vessel, dock, <sup>apparatus</sup>  
<sup>when</sup>  
<sup>ordered</sup>  
<sup>by proper</sup>  
<sup>authorities.</sup>

wharf, pier, sawmill or yard with a view to safeguarding life or property from destruction by fire, or that any material should be removed therefrom with such view, or that any apparatus should be supplied therefor with such view; and if such recommendation is approved by an officer in the service of His Majesty, thereto authorized by the Governor in Council; and, if notice of such recommendation and approval has been personally served upon such owner, lessee or other person; and if, after the expiration of thirty days from the receipt of such notice, such owner, lessee or other person refuses, neglects or otherwise fails to carry out such recommendation to the satisfaction of the officer in the service of His Majesty hereinbefore mentioned, such owner, lessee or other person shall be guilty of an indictable offence and shall be liable to a fine not exceeding one thousand dollars, or to imprisonment for any term not exceeding six months, or to both such fine and imprisonment. R.S., c. 146, s. 515; 1919, c. 15, ss. 1 and 2.

Threats to  
burn.

**516.** Every one is guilty of an indictable offence and liable to ten years' imprisonment who sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing threatening to burn or destroy any building, or any rick or stack of grain, hay or straw or other agricultural produce, or any grain, hay or straw or other agricultural produce in or under any building, or any ship or vessel. R.S., c. 146, s. 516.

*Railways, Mines and Electric Plant.*

Injuries  
likely to  
endanger  
property.

**517.** Every one is guilty of an indictable offence and liable to five years' imprisonment who, in manner likely to cause danger to valuable property, without endangering life or person,

- (a) places any obstruction upon any railway, or takes up, removes, displaces, breaks or injures any rail, sleeper or other matter or thing belonging to any railway; or
- (b) shoots or throws anything at an engine or other railway vehicle; or
- (c) interferes without authority with the points, signals or other appliances upon any railway; or
- (d) makes any false signal on or near any railway; or
- (e) wilfully omits to do any act which it is his duty to do; or
- (f) does any other unlawful act.

With intent.

2. Every one who does any of the acts in this section mentioned with intent to cause such danger is liable to imprisonment for life. R.S., c. 146, s. 517.

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**518.**

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**518.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, by any act or wilful omission, obstructs or interrupts, or causes to be obstructed or interrupted, the construction, maintenance or free use of any railway or any part thereof, or any matter or thing appertaining thereto or connected therewith. R.S., c. 146, s. 518. Obstructing railways.

**519.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars over and above the value of the goods or liquors so destroyed or damaged or to one month's imprisonment with or without hard labour, or to both, who Penalty.

- (a) wilfully destroys or damages anything containing any goods or liquors in or about any railway station or building or any vehicle of any kind on any railway, or in any warehouse, ship or vessel, with intent to steal or otherwise unlawfully to obtain or to injure the contents, or any part thereof; or Damaging goods on railway, etc.
- (b) unlawfully drinks or wilfully spills or allows to run to waste any such liquors, or any part thereof. R.S., c. 146, s. 519. Wasting liquors.

**520.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, with intent to injure a mine, oil or gas well, or obstruct the working thereof, Penalty.  
With intent to injure mine, oil or gas well.

- (a) causes any water, earth, rubbish or other substance to be conveyed into the mine, oil or gas well or any subterranean channel communicating with such mine or well; or Conveying substance into.
- (b) damages any shaft or any passage of the mine or well; or Damaging shaft.
- (c) damages, with intent to render useless, any apparatus, building, erection, bridge or road belonging to the mine or well, whether the object damaged be complete or not; or Damaging apparatus.
- (d) hinders the working of any such apparatus; or Hindering working of.
- (e) damages or unfastens, with intent to render useless any rope, chain or tackle used in any mine or well or upon any way or work connected therewith. R.S., c. 146, s. 520; 1921, c. 25, s. 10. Damaging tackle.

**521.** Every one is guilty of an indictable offence and liable to two years' imprisonment who wilfully Penalty.

- (a) destroys, removes or damages anything which forms part of, or is used or employed in or about any electric or magnetic telegraph, electric light, telephone or fire-alarm, or in the working thereof, or for the transmission of electricity for other lawful purposes; or Damaging telegraph, telephone or fire alarm.

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(b)

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Obstructing  
communication.

(b) prevents or obstructs the sending, conveyance or delivery of any communication by any such telegraph, telephone or fire-alarm, or the transmission of electricity for any such electric light, or for any such purpose as aforesaid.

Attempts.

2. Every one who wilfully, by any overt act, attempts to commit any such offence is guilty of an offence and liable, on summary conviction, to a penalty not exceeding fifty dollars, or to three months' imprisonment with or without hard labour. R.S., c. 146, s. 521.

Penalty.

### *Vessels and Rafts.*

Penalty.

**522.** Every one is guilty of an indictable offence and liable to imprisonment for life who wilfully

Casting  
away ship.

(a) casts away or destroys any ship, whether complete or unfinished;

Any act  
tending.

(b) does any act tending to the immediate loss or destruction of any ship in distress; or

Interfering  
with  
signal.

(c) interferes with any marine signal, or exhibits any false signal, with intent to bring a ship or boat into danger. R.S., c. 146, s. 522.

Attempt to  
wreck.

**523.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who attempts to cast away or destroy any ship, whether complete or unfinished. R.S., c. 146, s. 523.

Penalty.  
Preventing  
or  
impeding.  
Saving  
vessels.

**524.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who wilfully prevents or impedes, or endeavours to prevent or impede,

(a) the saving of any vessel that is wrecked, stranded, abandoned or in distress; or

Person  
trying to  
save.

(b) any person in his endeavour to save such vessel.

Saving  
wreck.

2. Every one who wilfully prevents or impedes, or endeavours to prevent or impede, the saving of any wreck is guilty of an offence punishable on indictment or on summary conviction and liable, on conviction on indictment, to two years' imprisonment, and, on summary conviction before two justices, to a fine of four hundred dollars or six months' imprisonment with or without hard labour. R.S., c. 146, s. 524.

Penalty.

**525.** Every one is guilty of an indictable offence and liable to two years' imprisonment who wilfully

Injuring  
dam, chain  
or raft,  
etc.

(a) breaks, injures, cuts, loosens, removes or destroys, in whole or in part, any dam, pier, slide, boom or other such work, or any chain or other fastening attached thereto, or any raft, crib of timber or sawlogs; or

Blocking up  
channel.

(b) impedes or blocks up any channel or passage intended for the transmission of timber. R.S., c. 146, s. 525.



*Public Property.*

**526.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who wilfully alters, removes or conceals, or attempts to alter, remove or conceal, any signal, buoy or other sea mark used for the purposes of navigation. Interfering with marine signals.

2. Every one who makes fast any vessel or boat to any such signal, buoy, or sea mark is liable, on summary conviction, to a penalty not exceeding ten dollars, and in default of payment to one month's imprisonment. R.S., c. 146, s. 526. Mooring vessel to.

**527.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding fifty dollars, who wilfully and without the permission of the Minister of Marine and Fisheries, the burden of proving which permission shall lie on the accused, removes any stone, wood, earth or other material forming a natural bar necessary to the existence of a public harbour, or forming a natural protection to such bar. R.S., c. 146, s. 527. Removing natural bar necessary for a harbour.

**528.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who wilfully Penalty.

(a) destroys, injures or obliterates, or causes to be destroyed, injured or obliterated; or Injuring.

(b) makes or causes to be made any erasure, addition of names or interlineation of names in or upon; Erasure in.

any writ of election, or any return to a writ of election, or any indenture, poll-book, voters' list, certificate, affidavit or report, or any document, ballot or paper made, prepared or drawn out according to any law in regard to Dominion, provincial, municipal or civic elections. R.S., c. 146, s. 528. Election documents.

*Buildings, Fences and Land Marks.*

**529.** Every one is guilty of an indictable offence and liable to five years' imprisonment who, being possessed of any dwelling-house or other building, or part of any dwelling-house or other building, which is built on lands subject to a mortgage or which is held for any term of years or other less term, or at will, or held over after the termination of any tenancy, wilfully and to the prejudice of the mortgagee or owner, Penalty. To the prejudice of owner, etc., of building occupied by offender.

(a) pulls down or demolishes, or begins to pull down or demolish the same or any part thereof, or removes or begins to remove the same or any part thereof from the premises on which it is erected; or Injuring or removing building.

(b) pulls down or severs from the freehold any fixture fixed in or to such dwelling-house or building, or part of such dwelling-house or building. R.S., c. 146, s. 529. Fixture.

Injuries to  
fences, wall,  
stile or  
gate.

**530.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars over and above the amount of the injury done, who wilfully destroys or damages any fence, or any wall, stile or gate, or any part thereof respectively, or any post or stake planted or set up on any land, marsh, swamp or land covered by water, on or as the boundary or part of the boundary line thereof, or in lieu of a fence thereto.

Subsequent  
offence.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is liable, on summary conviction, to three months' imprisonment with hard labour. R.S., c. 146, s. 530.

Injuring  
or  
removing  
marks  
indicating  
boundaries  
of  
province,  
county, etc.

**531.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who wilfully pulls down, defaces, alters or removes any mound, land mark, post or monument lawfully erected, planted or placed to mark or determine the boundaries of any province, county, city, town, township, parish or other municipal division. R.S., c. 146, s. 531.

Injuring or  
removing  
other  
boundary  
marks.

**532.** Every one is guilty of an indictable offence and liable to five years' imprisonment, who wilfully defaces, alters or removes any mound, land mark, post or monument lawfully placed by any land surveyor to mark any limit, boundary or angle of any concession, range, lot or parcel of land.

Saving.

2. It is not an offence for any land surveyor in his operations to take up such posts or other boundary marks when necessary, if he carefully replaces them as they were before. R.S., c. 146, s. 532.

#### *Trees, Vegetables, Roots and Plants.*

Injuries to  
trees, etc.

**533.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty-five dollars over and above the amount of the injury done, or to two months' imprisonment with or without hard labour, who wilfully destroys or damages the whole or any part of any tree, sapling or shrub, or any underwood, where-soever the same is growing, the injury done being to the amount of twenty-five cents, at the least.

Second  
offence.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is liable, on summary conviction, to a penalty not exceeding fifty dollars over and above the amount of the injury done, or to four months' imprisonment with hard labour.

Subsequent  
offence.

3. Every one who, having been twice convicted of any such offence, afterwards commits any such offence, is guilty of an indictable offence and liable to two years' imprisonment. R.S., c. 146, s. 533.

**534.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars over and above the amount of the injury done, or to three months' imprisonment with or without hard labour, who wilfully destroys, or damages with intent to destroy, any vegetable production growing in any garden, orchard, nursery ground, house, hot-house, green-house or conservatory. Injuries to vegetable productions in gardens.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is guilty of an indictable offence, and liable to two years' imprisonment. Subsequent offence.  
R.S., c. 146, s. 534.

**535.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding five dollars over and above the amount of the injury done, or to one month's imprisonment with or without hard labour, who wilfully destroys, or damages with intent to destroy, any cultivated root or plant used for the food of man or beast, or for medicine, or for distilling, or for dyeing, or for or in the course of any manufacture, and growing in any land, open or inclosed, not being a garden, orchard or nursery ground. Injuries to roots or plant growing elsewhere.

2. Every one who, having been convicted of any such offence, afterwards commits any such offence is liable, on summary conviction, to three months' imprisonment with hard labour. R.S., c. 146, s. 535. Subsequent offence.

#### *Cattle and Other Animals.*

**536.** Every one is guilty of an indictable offence and liable to two years' imprisonment who wilfully Penalty.

- (a) attempts to kill, maim, wound, poison or injure any cattle, or the young thereof; or Attempt to injure cattle.
- (b) places poison in such a position as to be easily par-taken of by any such animal. R.S., c. 146, s. 536. Poison cattle.

**537.** Every one is guilty of an offence and liable, on summary conviction, to a penalty not exceeding one hundred dollars over and above the amount of injury done, or to three months' imprisonment with or without hard labour, who wilfully kills, maims, wounds, poisons or injures any dog, bird, beast, or other animal, not being cattle, but being either the subject of larceny at common law, or being ordinarily kept in a state of confinement, or kept for any lawful purpose. Injuries to other animals.

2. Every one who, having been convicted of any such offence, afterwards commits any offence under this section, is guilty of an indictable offence, and liable to a fine or imprisonment, or both, in the discretion of the court. R.S., c. 146, s. 537. Subsequent offence.

Threats by  
letters to  
injure  
cattle.

**538.** Every one is guilty of an indictable offence and liable to two years' imprisonment who sends, delivers or utters, or directly or indirectly causes to be received, knowing the contents thereof, any letter or writing threatening to kill, maim, wound, poison or injure any cattle. R.S., c. 146, s. 538.

*Cases not Specially Provided for.*

Injuries to  
other  
property.

**539.** Every one who wilfully commits any damage, injury or spoil to or upon any real or personal property, either corporeal or incorporeal, and either of a public or private nature, for which no punishment is hereinbefore provided, is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars, and such further sum, not exceeding twenty dollars, as appears to the justice to be a reasonable compensation for the damage, injury or spoil so committed, to be paid in the case of private property to the person aggrieved.

Penalty.

Damage.

Imprison-  
ment.

2. If such sums of money, together with the costs, if ordered, are not paid either immediately after the conviction, or within such period as the justice, at the time of the conviction appoints, the justice may cause the offender to be imprisoned for any term not exceeding two months, with or without hard labour. R.S., c. 146, s. 539.

*Limitation.*

Fair claim  
of right.

**540.** Nothing in the last preceding section extends to  
(a) any case where the person acted under a fair and reasonable supposition that he had a right to do the act complained of; or

Sporting.

(b) any trespass, not being wilful and malicious, committed in hunting or fishing, or in the pursuit of game. R.S., c. 146, s. 540.

Colour of  
right.

**541.** Nothing shall be an offence under any of the foregoing provisions of this Part unless it is done without legal justification or excuse, and without colour of right.

Partial  
interest.

2. Where the offence consists in an injury to anything in which the offender has an interest, the existence of such interest, if partial, shall not prevent his act being an offence, and if total, shall not prevent his act being an offence, if done with intent to defraud. R.S., c. 146, s. 541.

Fraud.

*Cruelty to Animals.*

Penalty.

**542.** Every one is guilty of an offence and liable, on summary conviction before two justices, to a penalty not exceeding fifty dollars, or to three months' imprisonment with or without hard labour, or to both, who

- (a) wantonly, cruelly or unnecessarily beats, binds, ill-treats, abuses, overdrives, tortures or abandons in distress, or having actual possession and control thereof in any way fails to provide and supply food, water and shelter for any cattle, poultry, dog, domestic animal or bird, or wild animal or bird in captivity, so that unnecessary suffering or injury is caused to the same; Ill-treating animal.
- (b) while driving any cattle or other animal is, by negligence or ill-usage in the driving thereof, the means whereby any mischief, damage or injury is done by any such cattle or other animal; Injuries by ill-usage.
- (c) conveys, carries, causes, procures or, being the owner, permits to be conveyed or carried any cattle, domestic animal or bird or any other animal of whatsoever kind or species, and whether a quadruped or not, which is tame, or which has been or is being sufficiently tamed to serve some purpose for the use of man, in such manner or position as to cause any such animal any unnecessary suffering; or Carrying animals so as to inflict unnecessary suffering.
- (d) in any manner encourages, aids or assists at the fighting or baiting of any bull, bear, badger, dog, cock, or other kind of animal, whether of domestic or wild nature. R.S., c. 146, s. 542; 1922, c. 16, s. 6; 1925, c. 38, s. 12. Fighting of animal.

**543.** Every one is guilty of an offence and liable, on summary conviction before two justices, to a penalty not exceeding fifty dollars, or to three months' imprisonment, with or without hard labour, or to both, who builds, makes, maintains or keeps a cock-pit on premises belonging to or occupied by him, or allows a cock-pit to be built, made, maintained or kept on premises belonging to or occupied by him. Keeping cock-pit.

2. All cocks found in any such cock-pit, or on the premises wherein such cock-pit is, shall be confiscated and sold for the benefit of the municipality in which such cock-pit is situated. R.S., c. 146, s. 543. Confiscation.

**544.** No railway company, within Canada whose railway forms any part of a line of road over which cattle are conveyed from one province to another province, or from the United States to or through any province, or from any part of a province to another part of the same, and no owner or master of any vessel carrying or transporting cattle from one province to another province, or within any province, or from the United States to or through any province, shall confine the same in any car, or vessel of any description, for a longer period than thirty-six hours without unloading the same for rest, water and feeding for a Conveyance of cattle without proper rest and nourishment by railways, etc.

Carriage of calves under three weeks old other than calves with their dams and thorough-bred calves forbidden.

Reckoning period.

Saving.

Care necessary.

Lien for food.

Sanitary precautions.

Penalty extended to transportation of calves under 3 weeks old.

Time of confinement of cattle on railways extended.

period of at least five consecutive hours, unless prevented from so unloading and furnishing water and food by storm or other unavoidable cause, or by necessary delay or detention in the crossing of trains; and no such railway company, and no owner or master of any vessel plying from one province to another province, or within any province or from the United States to or through any province, shall convey or transport any calves under the age of three weeks other than calves at foot of milch cows or pure-bred calves on or over any of its lines of railway or on any such vessel.

2. In reckoning the period of confinement, the time during which the cattle have been confined without such rest, and without the furnishing of food and water, on any connecting railway or vessel from which they are received, whether in the United States or in Canada, shall be included.

3. The foregoing provisions as to cattle being unladen shall not apply when cattle are carried in any car or vessel in which they have proper space and opportunity for rest, and proper food and water.

4. Cattle so unloaded shall be properly fed and watered during such rest by the owner or person having the custody thereof or, in case of his default in so doing, by the railway company, or owner or master of the vessel transporting the same, at the expense of the owner or person in custody thereof; and such company, owner or master shall in such case have a lien upon such cattle for food, care and custody furnished and shall not be liable for any detention of such cattle.

5. Where cattle are unladen from cars for the purpose of receiving food, water and rest, the railway company then having charge of the cars in which they have been transported shall, except during a period of frost, clear the floors of such cars, and litter the same properly with clean sawdust or sand before reloading them with live stock.

6. Every person who knowingly and wilfully fails to comply with the provisions or otherwise violates any of the provisions of this section shall be guilty of an offence and liable for every such offence, on summary conviction, to a penalty not exceeding one hundred dollars.

7. Upon the written request of the owner or person in charge of any cattle so carried, which written request shall be separate and apart from any printed or other bill of lading or other railroad or shipping form, the time of confinement of such cattle may be extended to thirty-six hours where such cattle are carried on cars fitted with the necessary appliances and are, during such time, fed and watered without being unloaded. R.S., c. 146, s. 544; 1909, c. 9, s. 2; 1921, c. 25, s. 11; 1922, c. 16, s. 5.

**545.** Any peace officer or constable may, at all times enter any premises where he has reasonable grounds for supposing that any car, truck or vehicle as to which any company or person has failed to comply with the provisions of the last preceding section, is to be found, or enter on board any vessel in respect whereof he has reasonable grounds for supposing that any company or person has, on any occasion, so failed. Search of premises.

2. Every one who refuses admission to such peace officer or constable is guilty of an offence and liable, on summary conviction, to a penalty not exceeding twenty dollars and not less than five dollars, and costs, and in default of payment, to thirty days' imprisonment. R.S., c. 146, s. 545. Obstructing officer.

## PART IX.

### OFFENCES RELATING TO BANK NOTES, COIN AND COUNTERFEIT MONEY.

#### *Interpretation.*

**546.** In this Part, unless the context otherwise requires,— Definitions.

- (a) "counterfeit" means false, not genuine; "Counterfeit."
- (b) "counterfeit token of value" means any spurious or counterfeit coin, paper money, inland revenue stamp, postage stamp, or other evidence of value, by whatever technical, trivial or deceptive designation the same may be described, and includes also any coin or paper money, which although genuine has no value as money; "Counterfeit token of value."
- (c) "current copper coin" includes copper coin coined in any of His Majesty's mints, or lawfully current, by virtue of any proclamation or otherwise, in any part of His Majesty's dominions; "Current copper coin."
- (d) "current gold or silver coin" includes any gold or silver coin of any of His Majesty's mints, or gold or silver coin of any foreign prince or state or country, or other gold or silver coin lawfully current, by virtue of any proclamation or otherwise, in any part of His Majesty's dominions; "Current gold" or "silver coin."
- (e) "gild" and "silver" applied to coin, include casing with gold or silver respectively, and washing and colouring by any means whatsoever with any wash or material capable of producing the appearance of gold or silver respectively; "Gild." "Silver."
- (f) "utter" includes "tender" and "put off." R.S., c. 146, s. 546. "Utter."

Counter-  
feit raising  
of denom-  
ination.

Counter-  
feit  
reducing  
of size.

**547.** Any genuine coin prepared or altered so as to resemble or pass for any current coin of a higher denomination is a counterfeit coin.

2. A coin fraudulently filed or cut at the edges so as to remove the milling and on which a new milling has been added to restore the appearance of the coin, is a counterfeit coin. R.S., c. 146, s. 547.

CERTAIN OFFENCES—WHEN COMPLETE.

Complete  
although  
intended  
counter-  
feiting not  
perfected.

**548.** Every offence of making any counterfeit coin, or of buying, selling, receiving, paying, tendering, uttering or putting off, or of offering to buy, sell, receive, pay, utter or put off, any counterfeit coin is deemed to be complete, although the coin so made or counterfeited, or bought, sold, received, paid, tendered, uttered or put off, or offered to be bought, sold, received, paid, tendered, uttered or put off, was not in a fit state to be uttered, or the counterfeiting thereof was not finished or perfected. R.S., c. 146, s. 548.

Coin, etc.,  
genuine, but  
valueless.  
Must be  
knowledge  
and  
fraudulent  
intent.

**549.** In the case of coin or paper money which, although genuine, has no value as money, it is necessary in order to constitute an offence under this Part that there should be knowledge on the part of the person charged that such coin or paper money was of no value as money, and a fraudulent intent on his part in his dealings with or with respect to the same.

Exception.

2. Such intent shall not be necessary to constitute such offence in case such coin or paper money is made or issued with the intention, the disproof whereof shall lie on the accused, of entitling the holder thereof to receive therefor, to the extent of the value denoted thereon goods or merchandise from the person so charged as aforesaid. R.S., c. 146, s. 549; 1921, c. 25, s. 12.

*Bank Notes.*

Purchasing,  
receiving  
or  
possessing  
forged bank  
notes.

**550.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who, without lawful authority or excuse, the proof whereof shall lie on him, purchases or receives from any person, or has in his custody or possession, any forged bank note, or forged blank bank note, whether complete or not, knowing it to be forged. R.S., c. 146, s. 550.

Printing  
circulars,  
etc., in  
likeness  
of notes.

**551.** Every one is guilty of an offence and liable, on summary conviction before two justices, to a fine of one hundred dollars or three months' imprisonment, or both, who designs, engraves, prints or in any manner makes, executes, utters, issues, distributes, circulates or uses any business or professional card, notice, placard, circular, hand-



bill or advertisement in the likeness or similitude of any bank note, or any obligation or security of any government or any bank. R.S., c. 146, s. 551.

*Coin.*

**552.** Every one is guilty of an indictable offence and Penalty.  
liable to imprisonment for life who

- (a) makes or begins to make any counterfeit coin re- Making  
sembling, or apparently intended to resemble or pass counterfeit  
for, any current gold or silver coin; gold  
or silver  
coin.
- (b) gilds or silvers any coin resembling or apparently Changing  
intended to resemble or pass for, any current gold or into  
silver coin; counterfeit.
- (c) gilds or silvers any piece of silver or copper, or of Gilding to  
coarse gold or coarse silver, or of any metal or mix- resemble  
ture of metals respectively, being of a fit size and figure coin.  
to be coined, and with intent that the same shall be  
coined into counterfeit coin resembling, or apparently  
intended to resemble or pass for, any current gold or  
silver coin;
- (d) gilds any current silver coin, or files or in any man- Gilding  
ner alters such coin, with intent to make the same re- silver coin.  
semble or pass for any current gold coin; or
- (e) gilds or silvers any current copper coin, or files or in Gilding or  
any manner alters such coin, with intent to make the silvering  
same resemble or pass for any current gold or silver copper coin.  
coin. R.S., c. 146, s. 552.

**553.** Every one is guilty of an indictable offence and Penalty.  
liable to imprisonment for life who, without lawful auth-  
ority or excuse, the proof whereof shall lie on him,

- (a) buys, sells, receives, pays or puts off, or offers to buy, Buying,  
sell, receive, pay or put off, at or for a lower rate or selling or  
value than the same imports, or was apparently in- trading in  
tended to import, any counterfeit coin resembling or counterfeit  
apparently intended to resemble or pass for any cur- gold or  
rent gold or silver coin; or silver  
coin.
- (b) imports or receives into Canada any counterfeit coin Importing  
resembling or apparently intended to resemble or pass or  
for, any current gold or silver coin knowing the same receiving  
to be counterfeit. R.S., c. 146, s. 553. into  
Canada.

**554.** Every one who manufactures in Canada any cop- Manufac-  
per coin, or imports into Canada any copper coin, other turing or  
than current copper coin, with the intention of putting the importing  
same into circulation as current copper coin, is guilty of copper coin.  
an offence and liable, on summary conviction, to a penalty  
not exceeding twenty dollars for every pound troy weight  
thereof; and all such copper coin so manufactured or im-  
ported shall be forfeited to His Majesty. R.S., c. 146, s. 554.

Exportation of counterfeit coin.

**555.** Every one is guilty of an indictable offence and liable to two years' imprisonment who, without lawful authority or excuse the proof whereof shall lie on him, exports or puts on board any ship, vessel or boat, or on any railway or carriage or vehicle of any description whatsoever, for the purpose of being exported from Canada, any counterfeit coin resembling or apparently intended to resemble or pass for any current coin or for any foreign coin of any prince, country or state, knowing the same to be counterfeit. R.S., c. 146, s. 555.

Making or possessing, etc.

**556.** Every one is guilty of an indictable offence and liable to imprisonment for life who, without lawful authority or excuse, the proof whereof shall lie on him, makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his custody or possession,

Matrix, etc., for coinage.

(a) any puncheon, counter puncheon, matrix, stamp, die pattern or mould, in or upon which there is made or impressed or which will make or impress, or which is adapted and intended to make or impress, the figure, stamp or apparent resemblance of both or either of the sides of any current gold or silver coin, or of any coin of any foreign prince, state or country, or any part or parts of both or either of such sides;

Edgers, etc.

(b) any edge, edging or other tool, collar, instrument or engine adapted and intended for the marking of coin round the edges with letters, grainings, or other marks or figures apparently resembling those on the edges of any such coin, knowing the same to be so adapted and intended; or

Press for coinage.

(c) any press or coinage, or any cutting engine for cutting by force of a screw or of any other contrivance, round blanks out of gold, silver or other metal or mixture of metals, or any other machine, knowing such press to be a press or coinage, or knowing such engine or machine to have been used or to be intended to be used for or in order to the false making or counterfeiting of any such coin. R.S., c. 146, s. 556.

Conveying of mint into Canada.

**557.** Every one is guilty of an indictable offence and liable to imprisonment for life who, without lawful authority or excuse, the proof whereof shall lie on him, knowingly conveys out of any of His Majesty's mints into Canada, any puncheon, counter puncheon, matrix, stamp, die, pattern, mould, edger, edging or other tool, collar instrument, press or engine used or employed in or about the coining of coin, or any useful part of any of the several articles aforesaid, or any coin, bullion, metal or mixture of metals. R.S., c. 146, s. 557.

**558.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who impairs, diminishes or lightens any current gold or silver coin, with intent that the coin so impaired, diminished, or lightened may pass for current gold or silver coin. R.S., c. 146, s. 558.

Clipping  
current  
gold or  
silver coin.

**559.** Every one is guilty of an indictable offence and liable to one year's imprisonment who defaces any current gold, silver or copper coin by stamping thereon any names or words, whether such coin is or is not thereby diminished or lightened, and afterwards tenders the same. R.S., c. 146, s. 559.

Defacing  
current  
coin.

**560.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who unlawfully has in his custody or possession any filings or clippings, or any gold or silver bullion, or any gold or silver in dust, solution or otherwise, which has been produced or obtained by impairing, diminishing or lightening any current gold or silver coin, knowing the same to have been so produced or obtained. R.S., c. 146, s. 560.

Possessing  
clippings,  
etc., of  
current  
gold or  
silver coin.

**561.** Every one is guilty of an indictable offence and liable to three years' imprisonment who has in his custody or possession, knowing the same to be counterfeit, and with intent to utter the same or any of them,

Penalty.

Possessing  
with intent  
to utter.

(a) any counterfeit coin resembling or apparently intended to resemble or pass for, any current gold or silver coin; or

Counterfeit  
gold or  
silver coin.

(b) three or more pieces of counterfeit coin resembling, or apparently intended to resemble or pass for, any current copper coin. R.S., c. 146, s. 561.

Counterfeit  
copper  
coin.

**562.** Every one is guilty of an indictable offence and liable to three years' imprisonment who

Penalty.

(a) makes, or begins to make, any counterfeit coin resembling, or apparently intended to resemble or pass for, any current copper coin; or

Making  
counterfeit  
copper coin.

(b) without lawful authority or excuse, the proof of which shall lie on him, knowingly

Making,  
etc., tools  
for copper  
coinage.

(i) makes, or mends, or begins or proceeds to make or mend, or buys or sells, or has in his custody or possession, any instrument, tool or engine adapted and intended for counterfeiting any current copper coin,

(ii) buys, sells, receives, pays or puts off, or offers to buy, sell, receive, pay or put off, any counterfeit coin resembling, or apparently intended to resemble

Dealing in  
counterfeit  
copper coin.

or pass for, any current copper coin, at or for a lower rate of value than the same imports or was apparently intended to import. R.S., c. 146, s. 562.

## Penalty.

**563.** Every one is guilty of an indictable offence and liable to three years' imprisonment who,

Making  
counterfeit  
gold or  
silver  
foreign  
coin.

(a) makes, or begins to make, any counterfeit coin or silver coin resembling, or apparently intended to resemble or pass for, any gold or silver coin of any foreign prince, state or country, not being current coin;

Bringing  
into  
Canada.  
Having in  
possession.

(b) without lawful authority or excuse, the proof of which shall lie on him,

(i) brings into or receives in Canada any such counterfeit coin, knowing the same to be counterfeit,

(ii) has in his custody or possession any such counterfeit coin, knowing the same to be counterfeit, and with intent to put off the same;

## Uttering.

Making  
counterfeit  
foreign  
copper coin.

(c) utters any such counterfeit coin; or

(d) makes any counterfeit coin resembling, or apparently intended to resemble or pass for, any copper coin of any foreign prince, state or country, not being current coin. R.S., c. 146, s. 563.

Uttering  
counterfeit  
gold or  
silver coin.

**564.** Every one is guilty of an indictable offence and liable to fourteen years' imprisonment who utters any counterfeit coin resembling, or apparently intended to resemble or pass for, any current gold or silver coin, knowing the same to be counterfeit. R.S., c. 146, s. 564.

## Penalty.

**565.** Every one is guilty of an indictable offence and liable to three years' imprisonment who

Uttering  
light gold  
or silver  
coin.

(a) utters, as being current, any gold or silver coin of less than its lawful weight, knowing such coin to have been impaired, diminished or lightened, otherwise than by lawful wear;

Uttering  
false gold  
or silver  
coin.

(b) with intent to defraud utters, as or for any current gold or silver coin, any coin not being such current gold or silver coin, or any medal, or piece of metal or mixed metals, resembling, in size, figure and colour, the current coin as or for which the same is so uttered, such coin, medal or piece of metal or mixed metals so uttered being of less value than the current coin as for which the same is so uttered; or

Uttering  
counterfeit  
copper coin.

(c) utters any counterfeit coin resembling or apparently intended to resemble or pass for any current copper coin, knowing the same to be counterfeit. R.S., c. 146, s. 565.

**566.** Every one who utters any coin defaced by having stamped thereon any names or words is guilty of an offence, and liable, on summary conviction before two justices, to a penalty not exceeding ten dollars. R.S., c. 146, s. 566.

**567.** Every one who utters, or offers in payment, any copper coin, other than current copper coin, is guilty of an offence and liable, on summary conviction, to a penalty of double the nominal value thereof, and in default of payment of such penalty to eight days' imprisonment. R.S., c. 146, s. 567.

**568.** Every one who, after a previous conviction for any offence relating to the coin under this or any other Act, is convicted of any offence specified in this Part is liable

- (a) to imprisonment for life, if fourteen years is the longest term of imprisonment to which he would have been liable had he not been so previously convicted; Penalty.
- (b) to fourteen years' imprisonment, if seven years is the longest term of imprisonment to which he would have been liable had he not been so previously convicted; Penalty.
- (c) to seven years' imprisonment, if he would not have been liable to seven years' imprisonment had he not been so previously convicted. R.S., c. 146, s. 568. Penalty.

#### *Advertising Counterfeit Money.*

**569.** Every one is guilty of an indictable offence and liable to five years' imprisonment who

- (a) prints, writes, utters, publishes, sells, lends, gives away, circulates or distributes any letter, writing, circular, paper, pamphlet, handbill or any written or printed matter, advertising, or offering or purporting to advertise or offer for sale, loan, exchange, gift or distribution, or to furnish, procure or distribute, any counterfeit token of value, or what purports to be a counterfeit token of value, or giving or purporting to give, either directly or indirectly, information where, how, of whom or by what means any counterfeit token of value, or what purports to be a counterfeit token of value, may be procured or had; Advertising counterfeit money.
- (b) in executing, operating, promoting or carrying on any scheme or device to defraud, by the use or by means of any papers, writings, letters, circulars or written or printed matters concerning the offering for sale, loan, gift, distribution or exchange of counterfeit tokens of value, uses any fictitious, false or assumed name or address, or any name or address other than his own right, proper and lawful name; Using any fictitious name or address.

Taking  
from the  
mails any  
letter to  
a fictitious  
address.

(c) in the execution, operating, promoting or carrying on, of any scheme or device offering for sale, loan, gift, or distribution, or purporting to offer for sale, loan, gift or distribution or giving or purporting to give information, directly or indirectly, where, how, of whom or by what means any counterfeit token of value may be obtained or had, knowingly receives or takes from the mails, or from the post office, any letter or package addressed to any fictitious, false or assumed name or address, or name other than his own right, proper or lawful name; or

Purchasing  
counterfeit  
money.

(d) purchases, exchanges, accepts, takes possession of or in any way uses, or offers to purchase, exchange, accept, take possession of or in any way use, or negotiates or offers to negotiate with a view to purchasing or obtaining or using any such counterfeit token of value, or what purports so to be.

Counterfeit  
money and  
instruments  
used for  
making  
counterfeit  
money, to  
be sent to  
Minister of  
Finance to  
be destroyed  
or  
disposed of.

2. Counterfeit money or coin and tokens of value, and instruments or materials of any kind used or intended to be used for the making of counterfeit money or coin or tokens of value, shall belong to His Majesty, and all counterfeit money or coin or tokens of value and all such instruments or materials which come into the possession or under the control of any person or court shall be forthwith forwarded to the Minister of Finance, to be destroyed or otherwise disposed of as he may direct: Provided that where any such counterfeit money or coin or tokens of value, instruments or materials, are required as evidence in any court they shall not be forwarded to the Minister until such time as they are no longer required for such purpose. R.S., c. 146, s. 569; 1925, c. 38, s. 13.

## PART X.

### ATTEMPTS—CONSPIRACIES—ACCESSORIES.

Attempt to  
commit  
indictable  
offences.

**570.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who attempts, in any case not hereinbefore provided for, to commit any indictable offence for which the punishment is imprisonment for life, or for fourteen years, or for any term longer than fourteen years. R.S., c. 146, s. 570.

Attempt to  
commit  
other  
indictable  
offences.

**571.** Every one who attempts to commit any indictable offence for committing which the longest term to which the offender can be sentenced is less than fourteen years, and no express provision is made by law for the punishment of such attempt, is guilty of an indictable offence and liable to imprisonment for a term equal to

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one-

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one-half of the longest term to which a person committing the indictable offence attempted to be committed may be sentenced. R.S., c. 146, s. 571.

**572.** Every one is guilty of an indictable offence and liable to one year's imprisonment who attempts to commit any offence under any statute for the time being in force and not inconsistent with this Act, or incites or attempts to incite any person to commit any such offence, and for the punishment of which no express provision is made by such statute. R.S., c. 146, s. 572. Attempt to commit statutory offences.

**573.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, in any case not hereinbefore provided for, conspires with any person to commit any indictable offence. R.S., c. 146, s. 573. Conspiring to commit indictable offence.

**574.** Every one is guilty of an indictable offence and liable to seven years' imprisonment who, in any case where no express provision is made by this Act for the punishment of an accessory, is accessory after the fact to any indictable offence for which the punishment is, on a first conviction, imprisonment for life, or for fourteen years, or for any term longer than fourteen years. R.S., c. 146, s. 574. Accessories after the fact in certain cases.

**575.** Every one who is accessory after the fact to any indictable offence for committing which the longest term to which the offender can be sentenced is less than fourteen years, if no express provision is made for the punishment of such accessory, is guilty of an indictable offence and liable to imprisonment for a term equal to one-half of the longest term to which a person committing the indictable offence to which he is accessory may be sentenced. R.S., c. 146, s. 575. Accessories after the fact in other cases.

## PART XI.

### JURISDICTION.

#### *Rules of Court.*

**576.** Every superior court of criminal jurisdiction may at any time, with the concurrence of a majority of the judges thereof present at any meeting held for the purpose, make rules of court, not inconsistent with any statute of Canada, which shall apply to all proceedings relating to any prosecution, proceeding or action instituted in relation to any matter of a criminal nature, or resulting from or incidental to any such matter, and in particular, Power to make rules.

Regulating  
sittings.

(a) for regulating the sittings of the court or of any division thereof, or of any judge of the court sitting in chambers, except in so far as the same are already regulated by law;

Regulating  
practice.

(b) for regulating in criminal matters the pleading, practice and procedure in the court, including the subjects of *mandamus*, *certiorari*, *habeas corpus*, prohibition, *quo warranto*, bail and costs, and the proceedings on application to a justice to state and sign a case for the opinion of the courts as to a conviction, order, determination or other proceeding before him; and

General.

(c) generally for regulating the duties of the officers of the court and every other matter deemed expedient for better attaining the ends of justice and carrying the provisions of the law into effect.

To be laid  
before  
Parliament,  
etc.

2. Copies of all rules made under the authority of this section shall be laid before both Houses of Parliament at the session next after the making thereof, and shall also be published in the *Canada Gazette*.

Authority  
in Ontario  
for  
making.

3. In the province of Ontario the authority for the making of rules of court applicable to superior courts of criminal jurisdiction in the province is vested in the supreme court of judicature, and such rules may be made by the said court at any time with the concurrence of a majority of the judges thereof present at a meeting held for the purpose. R.S., c. 146, s. 576.

### General.

Jurisdiction  
of courts  
generally.

**577.** Unless otherwise specially provided in this Act, every court of criminal jurisdiction in any province is competent to try any crime or offence within the jurisdiction of such court to try, wherever committed within the province, if the accused is found or apprehended or is in custody within the jurisdiction of such court or if he has been committed for trial to such court or ordered to be tried before such court, or before any other court, the jurisdiction of which has by lawful authority been transferred to such first mentioned court under any Act for the time being in force. R.S., c. 146, s. 577.

Certain  
persons not  
to try case  
under s.  
501.

**578.** No person who is a master, or the father, son or brother of a master in the particular manufacture, trade or business, in or in connection with which any offence under section five hundred and one is charged to have been committed, shall act as a magistrate or justice, in any case of complaint or information under that section, or as a member of any court for hearing any appeal in any such case. R.S., c. 146, s. 578.



*Indictable Offences.*

**579.** Any judge or other person presiding at the sittings of a court at which any person is tried for an indictable offence under this Act, whether he is the judge of such court or is appointed by commission or otherwise to hold such sittings, may reserve the giving of his final decision on questions raised at the trial; and his decision, whenever given, shall be considered as if given at the time of the trial. R.S., c. 146, s. 579.

Questions raised at trial may be reserved for decision.

**580.** Every superior court of criminal jurisdiction and every judge of such court sitting as a court for the trial of criminal causes, and every court of oyer and terminer and general gaol delivery has power to try any indictable offence.

Jurisdiction of superior courts.

2. Whenever, in the province of Quebec, it has been decided by the competent authority that no jury is to be summoned at the appointed time in any district in the province within which a term of the Court of King's Bench holding criminal pleas should be then held, the Clerk of the Peace may, on the date of the opening of such term, if there be no judge to preside the Court,

Adjournment of Court of King's Bench in Quebec when no jury summoned.

(a) adjourn the Court and the appeals to any further day; or

(b) adjourn the appeals to the first day of the then next term of the Court; and renew the recognizances or bail bonds so as to secure the presence of all the accused and others who are bound to appear on the first day of the then next term or on the day to which he will have adjourned the Court or the appeals. R.S., c. 146, s. 580; 1925, c. 38, s. 14.

Renewal of recognizances.

**581.** Where an indictment is found against any person for any of the offences mentioned in section four hundred and ninety-eight, the defendant or person accused shall have the option to be tried before the judge presiding at the court at which the indictment is found, or the judge presiding at any subsequent sitting of such court, or at any court where the indictment comes on for trial, without the intervention of a jury; and in the event of such option being exercised the proceedings subsequent thereto shall be regulated in so far as may be applicable by Part XVIII. R.S., c. 146, s. 581.

Option for trial without jury in trade conspiracy cases.

**582.** Every court of general or quarter sessions of the peace, when presided over by a superior court judge, or a county or district court judge, or in the cities of Montreal and Quebec by a recorder or judge of the sessions of the peace, and in the province of New Brunswick every county court judge has power to try any indictable offence except as hereinafter provided. R.S., c. 146, s. 582.

Jurisdiction of sessions and certain other courts

Idem.

**583.** No court mentioned in the last preceding section has power to try any offence under sections,

- (a) seventy-four, treason; seventy-six, accessories after the fact to treason; seventy-seven, seventy-eight, and seventy-nine, treasonable offences; eighty, assaults on the King; eighty-one, inciting to mutiny; eighty-five, unlawfully obtaining and communicating official information; eighty-six, communicating information acquired in office;
  - (b) one hundred and thirty, administering, taking or procuring the taking of oaths to commit certain crimes; one hundred and thirty-one, administering, taking or procuring the taking of other unlawful oaths; one hundred and thirty-four, seditious offences; one hundred and thirty-five, libels on foreign sovereigns; one hundred and thirty-six, spreading false news;
  - (c) one hundred and thirty-seven to one hundred and forty inclusive, piracy;
  - (d) one hundred and fifty-six, judicial, etc., corruption; one hundred and fifty-seven, corruption of officers employed in prosecuting offenders; one hundred and fifty-eight, frauds upon the Government; one hundred and sixty, breach of trust by a public officer; one hundred and sixty-one, municipal corruption; one hundred and sixty-two (a), selling offices;
  - (e) two hundred and sixty-three, murder; two hundred and sixty-four, attempt to murder; two hundred and sixty-five, threat to murder; two hundred and sixty-six, conspiracy to murder; two hundred and sixty-seven, accessory after the fact to murder; two hundred and sixty-eight, manslaughter;
  - (f) two hundred and ninety-nine, rape; three hundred, attempt to commit rape;
  - (g) three hundred and seventeen to three hundred and thirty-four, defamatory libel;
  - (h) four hundred and ninety-eight, combination in restraint of trade; or
2. No such court has power to try any person
- (a) for conspiring or attempting to commit, or being accessory after the fact to any of the offences in this section before mentioned; or
  - (b) indicted for bribery or undue influence, personation or other corrupt practice under the Dominion Elections Act. R.S., c. 146, s. 583; 1909, c. 9, s. 2.

*Special Jurisdiction.*

**584.** For the purposes of this Act,

- (a) where the offence is committed in or upon any water, tidal or other, or upon any bridge, between two or more magisterial jurisdictions, such offence may be considered as having been committed in either of such jurisdictions; On water between jurisdictions.
- (b) where the offence is committed on the boundary of two or more magisterial jurisdictions, or within the distance of five hundred yards from any such boundary, or is begun within one magisterial jurisdiction and completed within another, such offence may be considered as having been committed in any one of such jurisdictions; Near boundary between jurisdictions.
- (c) where the offence is committed on or in respect to a mail, or a person conveying a post letter bag, post letter or anything sent by post, or on any person, or in respect of any property, in or upon any vehicle employed in a journey, or on board any vessel employed on any navigable river, canal or other inland navigation, the person accused shall be considered as having committed such offence in any magisterial jurisdiction through which such vehicle or vessel passed in the course of the journey or voyage during which the offence was committed; and where the centre or other part of the road, or any navigable river, canal or other inland navigation along which the vehicle or vessel passed in the course of such journey or voyage, is the boundary of two or more magisterial jurisdictions, the person accused of having committed the offence may be considered as having committed it in any one of such jurisdictions. In respect to mail or vehicle or vessel passing through several jurisdictions. R.S., c. 146, s. 584.

**585.** All offences committed in any of the unorganized tracts of country in the province of Ontario, including lakes, rivers and other waters therein, not embraced within the limits of any organized county, or within any provisional judicial district, may be laid and charged to have been committed and may be inquired of, tried and punished within any county of such province; and such offences shall be within the jurisdiction of any court having jurisdiction over offences of the like nature committed within the limits of such county, before which court such offences may be prosecuted; and such court shall proceed therein to trial, judgment and execution or other punishment for such offence in the same manner as if such offence had been committed within the county where such trial is had. Offences in unorganized tracts in Ontario.

Provisional  
districts or  
new  
counties  
within.

2. When any provisional judicial district or new county is formed and established in any of such unorganized tracts, all offences committed within the limits of such provisional judicial district or new county, shall be inquired of, tried and punished within the same, in like manner as such offences would have been inquired of, tried and punished if this section had not been passed.

Where  
committed  
to gaol.

3. Any person accused or convicted of any offence in any such provisional district may be committed to any common gaol in the province of Ontario. R.S., c. 146, s. 585.

Offences  
not in  
province or  
Yukon.

**586.** All offences committed in any part of Canada not in a province duly constituted as such and not in the Yukon Territory may be inquired of and tried within any district, county or place in any province so constituted or in the Yukon Territory as may be most convenient.

2. Such offences shall be within the jurisdiction of any court having jurisdiction over offences of the like nature committed within the limits of such district, county or place.

3. Such court shall proceed to trial, judgment and execution or other punishment for any such offence in the same manner as if such offence had been committed within the district, county or place where the trial is had. 1907, c. 8, s. 2.

Powers of  
provincial  
or Yukon  
courts.

**587.** The several courts of criminal jurisdiction in the provinces aforesaid, and in Yukon Territory, including justices, shall have the same powers, jurisdiction and authority in case of such offences as they respectively have with reference to offences within their ordinary jurisdiction as provincial or territorial courts. 1907, c. 8, s. 2.

Offences  
committed  
in the  
district  
of Gaspé.

**588.** Whenever any offence is committed in the district of Gaspé, the offender, if committed to gaol before trial, may be committed to the common gaol of the county in which the offence was committed, or may, in law, be deemed to have been committed, and if tried before the Court of King's Bench, he shall be so tried at the sitting of such court held in the county to the gaol of which he has been committed, and if imprisoned in the common gaol after trial he shall be so imprisoned in the common gaol of the county in which he has been tried. R.S., c. 146, s. 588.

## PART XII.

## SPECIAL PROCEDURE AND POWERS.

*Offences Requiring Statute.*

**589.** No person shall be proceeded against for any offence against any Act of the Parliament of England, of Great Britain, or of the United Kingdom of Great Britain and Ireland, unless such Act is, by the express terms thereof, or of some other Act of such Parliament, made applicable to Canada or some portion thereof as part of His Majesty's dominions or possessions. R.S., c. 146, s. 589. Offences against Imperial statutes.

**590.** No prosecution shall be maintainable against any person for conspiracy in refusing to work with or for any employer or workman, or for doing any act or causing any act to be done for the purpose of a trade combination, unless such act is an offence punishable by statute. R.S., c. 146, s. 590. Prosecutions for trade conspiracy.

*Cases Requiring Consent.*

**591.** Proceedings for the trial and punishment of a person who is not a subject of His Majesty, and who is charged with any offence committed within the jurisdiction of the Admiralty of England, shall not be instituted in any court in Canada except with the leave of the Governor General and on his certificate that it is expedient that such proceedings should be instituted. R.S., c. 146, s. 591. Offences within the jurisdiction of the Admiralty.

**592.** No person shall be prosecuted for the offence of unlawfully obtaining and communicating official information, without the consent of the Attorney General or of the Attorney General of Canada. R.S., c. 146, s. 592. Disclosing official secrets.

**593.** No one holding any judicial office shall be prosecuted for the offence of judicial corruption, without the leave of the Attorney General of Canada. R.S., c. 146, s. 593. Judicial corruption.

**594.** If any person is charged under section one hundred and thirteen, before a justice with the offence of making or having explosive substances, no further proceeding shall be taken against such person without the consent of the Attorney General except such as the justice thinks necessary, by remand or otherwise, to secure the safe custody of such person. R.S., c. 146, s. 594. Making explosive substances.

**595.** Without the consent of the Minister of Marine and Fisheries, no person shall be prosecuted for the offence of sending an unseaworthy ship to sea on a voyage. R.S., c. 146, s. 595. Sending unseaworthy ship to sea.

Criminal  
breach of  
trust.

**596.** No proceeding or prosecution against a trustee for a criminal breach of trust shall be commenced without the sanction of the Attorney General. R.S., c. 146, s. 596.

Fraudulent  
acts of  
vendor or  
mortgagor.

**597.** No prosecution for concealing any settlement, deed, will, or other instrument material to any title, or any encumbrance, or falsifying any pedigree upon which any title depends, shall be commenced without the consent of the Attorney General, given after previous notice to the person intended to be prosecuted of the application to the Attorney General for leave to prosecute. R.S., c. 146, s. 597.

Uttering  
defaced  
coin.

**598.** No proceeding or prosecution for the offence of uttering any coin defaced by having stamped thereon any names or words, shall be taken without the consent of the Attorney General. R.S., c. 146, s. 598.

*Provisions as to Ontario and Nova Scotia.*

Practice in  
High Court  
of Justice  
in  
Ontario.

**599.** The practice and procedure in all criminal cases and matters in the High Court Division of the Supreme Court of Ontario which are not provided for by this Act, shall be the same as the practice and procedure in similar cases and matters heretofore. R.S., c. 146, s. 599.

Com-  
mission of  
court of  
assize, etc.

**600.** If any general commission for the holding of a court of assize and *nisi prius*, oyer and terminer or general gaol delivery is issued by the Governor General for any county or district in the province of Ontario, such commission shall contain the names of the justices of the Supreme Court of Ontario, and may also contain the names of the judges of any of the county courts in Ontario, and of any of His Majesty's counsel learned in the law duly appointed for the province of Upper Canada, or for the province of Ontario, and if any such commission is for a provisional judicial district such commission may contain the name of the judge of the district court of the said district. R.S., c. 146, s. 600.

Who shall  
preside.

**601.** The courts in the next preceding section mentioned shall be presided over by one of the justices of the said Supreme Court, or in their absence by one of such county court judges or by one of such counsel, or in the case of any such district by the judge of such district court. R.S., c. 146, s. 600.

Gaol  
delivery by  
court of  
General  
Sessions.

**602.** It shall not be necessary for any court of general sessions in the province of Ontario to deliver the gaol of all prisoners who are confined upon charges of theft, but the court may leave any such cases to be tried at the next

court of oyer and terminer and general gaol delivery, if, by reason of the difficulty or importance of the case, or for any other cause, it appears to it proper so to do. R.S., c. 146, s. 601.

*Provision as to Nova Scotia.*

**603.** A judge of the Supreme Court of Nova Scotia may sentence convicted criminals on any day of the sittings at Halifax, as well as in term time. R.S., c. 146, s. 603. Sentences in Nova Scotia.

*General Powers of Certain Officials.*

**604.** The Judges of the Sessions of the Peace for the cities of Quebec and Montreal, and every recorder, police magistrate, district magistrate or stipendiary magistrate appointed for any territorial division, and every magistrate authorized by law of the province in which he acts to perform acts usually required to be done by two or more justices, may do alone whatever is authorized by this Act to be done by any two or more justices. R.S., c. 146, s. 604. Officials with powers of two justices.

**605.** Every judge of a superior court or of a county court, judge of the sessions of the peace, stipendiary magistrate, police magistrate, and commissioner of police of Canada, shall, within the limits of his jurisdiction as such judge, magistrate or commissioner, have all the powers of a justice with respect to offences against provisions of this Act as to prize fights. R.S., c. 146, s. 606. Jurisdiction as to prize fights.

**606.** Every judge of the sessions of the peace, chairman of the court of general sessions of the peace, police magistrate, district magistrate or stipendiary magistrate, shall have such and like powers and authority to preserve order in courts held by them during the holding thereof, and by the like ways and means as now by law are or may be exercised and used in like cases and for the like purposes by any court in Canada, or by the judges thereof, during the sittings thereof. R.S., c. 146, s. 607. Preserving order in court.

**607.** Every judge of the sessions of the peace, chairman of the court of general sessions of the peace, recorder, police magistrate, district magistrate or stipendiary magistrate, whenever any resistance is offered to the execution of any summons, warrant of execution or other process issued by him, may enforce the due execution of the same by the means provided by the law for enforcing the execution of the process of other courts in like cases. R.S., c. 146, s. 608. Resistance to execution of process.

*Special Powers and Duties of Certain Officials.*

Persons  
carrying  
weapon in  
proclaimed  
district,  
arrest of.

**608.** Any commissioner of police or justice, constable or peace officer, or any person acting under a warrant, in aid of any constable or peace officer, may arrest and detain any person employed on any public work, found carrying any weapon, within any place in which Part III is, at the time, in force, at such time and in such manner as, in the judgment of such commissioner, justice, constable or peace officer, or person acting under a warrant, afford just cause of suspicion that it is carried for purposes dangerous to the public peace. R.S., c. 146, s. 609.

Committal.

**609.** The justice or commissioner in the next preceding section mentioned arresting such person, or before whom he is brought, may commit him for trial unless he gives sufficient bail for his appearance at the next term or sitting of the court before which the offence can be tried, to answer to any indictment to be then preferred against him. R.S., c. 146, s. 609.

Search  
warrant  
for weapon.

**610.** Such commissioner or any justice having authority within any place in which Part III is at the time in force, upon oath before him of belief of the deponent that any weapon is in the possession of any person or in any house or place contrary to the provisions of Part III, may issue his warrant to any constable or peace officer to search for and seize the same.

Seizure of  
same.

2. Such constable or peace officer, or any person in his aid, may search for and seize the same in the possession of any person, or in any such house or place. R.S., c. 146, s. 610.

Right of  
entry for  
search.

**611.** If admission to any such house or place is refused after demand, such constable or peace officer and any person in his aid, may enter the same by force, by day or by night, and seize any such weapon and deliver it to such commissioner or justice.

Confiscation  
of weapon.

2. Unless the person in whose possession or in whose house or premises the same is found, within four days next after the seizure, proves to the satisfaction of such commissioner or justice that the weapon so seized was not in his possession or in his house or place contrary to the provisions of Part III, such weapon shall be forfeited to the use of His Majesty. R.S., c. 146, s. 611.

Disposal  
of  
forfeited  
arms.

**612.** All weapons declared forfeited under Part III, shall be sold or destroyed under the direction of the commissioner or justice by whom or by whose authority the same are seized, or before whom the same are brought, and the



the proceeds of such sale, after deducting necessary expenses, shall be received by such commissioner and paid over by him to the Minister of Finance for the public uses of Canada. R.S., c. 146, s. 612.

*Intoxicating Liquor.*

**613.** If any person makes oath or affirmation before any such commissioner or justice, that he has reason to believe, and does believe, that any intoxicating liquor with respect to which a violation of the provisions of section one hundred and fifty has been committed or is intended to be committed is on board of any steamboat, vessel, boat, canoe, raft, or other craft, or in any railway carriage or freight car, or in any carriage, vehicle or other conveyance, or in any railway station, freight shed or other railway building, or in or about any other building or premises, or in any other place within the limits specified in any proclamation under the said Part, the commissioner or justice shall issue a search warrant to any sheriff, police officer, constable or bailiff, who shall forthwith proceed to search the steamboat, vessel, boat, canoe, raft or other craft, or the railway carriage, freight car, or the carriage, vehicle or conveyance, or the railway station, freight shed, or other railway building, or the other building or premises, or the place described in such search warrant. Search for liquor.

2. If any intoxicating liquor is found therein or thereon the person executing such search warrant shall seize the intoxicating liquor and the barrels, casks, jars, bottles or other packages in which it is contained and shall keep it and them secure until final action is had thereon. Seized liquor securely kept.

3. No dwelling house in which, or in part of which, or on the premises whereof, a shop or bar, is not kept, shall be searched, unless the said informant also makes oath or affirmation that some offence in violation of the provisions of the said section has been committed therein or therefrom within one month next preceding the time of making his said information for a search warrant. R.S., c. 146, s. 613; 1907, c. 9, s. 4. Information when there is no shop or bar.

**614.** The owner, keeper or person in possession of the intoxicating liquor so seized, if he is known to the officer seizing it, shall be brought forthwith before the commissioner or justice who issued the search warrant, and if it appears to the satisfaction of the commissioner or justice that a violation of the provisions of the said section has been committed, or was intended to be committed with respect to such intoxicating liquor, it shall be declared forfeited, with any package in which it is contained, and shall Summoning owner of liquor.

shall be destroyed by authority of the written order to that effect of the commissioner or justice, and in his presence or in the presence of some person appointed by him to witness the destruction thereof.

Attestation  
of  
destruction.

2. Such commissioner or justice, or the person so appointed by him, and the officer by whom the said intoxicating liquor has been destroyed shall jointly attest, in writing upon the back of the said order, the fact that it has been destroyed. R.S., c. 146, s. 614; 1907, c. 9, s. 5.

Owner,  
keeper or  
possessor  
may be  
convicted  
at once.

**615.** The owner, keeper or person in possession of any intoxicating liquor so seized and forfeited may be convicted of an offence against the said section without any further information laid or trial had, and shall be liable to the penalties mentioned in section one hundred and fifty-one. R.S., c. 146, s. 615.

Procedure  
if owner is  
unknown.

**616.** If the owner, keeper or possessor of intoxicating liquor seized as aforesaid, is unknown to the officer seizing the same, it shall not be condemned and destroyed until the fact of such seizure, with the number and description of the packages, as near as may be, has been advertised for two weeks by posting up a written or a printed notice and description thereof, in at least three public places, in the place where it was seized.

When  
liquor  
may be  
delivered  
to owner.

2. If it is proved within such two weeks to the satisfaction of the commissioner or justice by whose authority such intoxicating liquor was seized, that with respect to such intoxicating liquor no violation of the provisions of section one hundred and fifty has been committed or is intended to be committed, it shall not be destroyed, but shall be delivered to the owner, who shall give his receipt therefor in writing upon the back of the search warrant, which shall be returned to the commissioner or justice who issued the same.

Forfeiture  
and  
destruction  
in other  
cases.

3. If after such advertisement as aforesaid, it appears to such commissioner or justice that a violation of the provisions of the said section has been committed or is intended to be committed, then such intoxicating liquor, with any package in which it is contained, shall be forfeited and destroyed as hereinbefore provided. R.S., c. 146, s. 616.

Evidence  
of precise  
description  
of liquor  
not  
necessary.

**617.** In any prosecution under this Act for any offence with respect to intoxicating liquor, it shall not be necessary that any witness should depose directly to the precise description of the liquor with respect to which the offence has been committed, or to the precise consideration therefor, or to the fact of the offence having been committed with his participation or to his own personal and certain

knowledge; but the commissioner or justice trying the case, so soon as it appears to him that the circumstances in evidence sufficiently establish the offence complained of, shall put the defendant on his defence, and in default of such evidence being rebutted, shall convict the defendant accordingly. R.S., c. 146, s. 617.

**618.** Such commissioner or justice may hear and determine, in manner provided by Part XV, any case arising within his jurisdiction. Summary convictions.

2. All the provisions of Part XV shall, in so far as they are not inconsistent with this Part, apply to every commissioner or justice mentioned in this Part or empowered to try offenders against Part III. Part to apply.

3. Every such commissioner shall be deemed a justice within the meaning of Part XV, whether he is or is not a justice for other purposes. R.S., c. 146, s. 618. Commissioner a justice under Part XV.

**619.** Any justice within whose jurisdiction any public meeting is appointed to be held may demand, have and take of and from any person attending such meeting, or on his way to attend the same, without his consent and against his will, by such force as is necessary for that purpose, any offensive weapon, such as firearms, swords, staves, bludgeons, or the like, with which any such person is so armed, or which any such person has in his possession. R.S., c. 146, s. 619. Justices may disarm persons attending meeting.

**620.** Upon reasonable request to any justice to whom any such weapon has been peaceably and quietly delivered as aforesaid, made on the day next after the meeting has finally dispersed, and not before, such weapon shall, if of the value of one dollar or upwards, be returned by such justice to the person from whom the same was received. R.S., c. 146, s. 620. Restitution of weapons.

**621.** No such justice shall be held liable to return any such weapon, or make good the value thereof, if the same, by unavoidable accident, has been actually destroyed or lost out of the possession of such justice without his wilful default. R.S., c. 146, s. 621. No liability in case of accidental loss.

**622.** The court or justice before whom any person is convicted of any offence against the provisions of sections one hundred and twenty to one hundred and twenty-four inclusive, shall impound the weapon for carrying which such person is convicted, and if the weapon is not a pistol, rifle or shot-gun, shall cause it to be destroyed. Weapon not a pistol, rifle or shot-gun to be impounded and destroyed.

If pistol,  
rifle or  
shot-gun,  
to be  
handed  
over to  
municipality.  
To  
lieutenant-  
governor,  
if no  
municipality.

2. If the weapon is a pistol, rifle or shot-gun, the court or justice shall cause it to be handed over to the corporation of the municipality in which the conviction takes place, for the public uses of such corporation.

3. If the conviction takes place where there is no municipality, the pistol, rifle or shot-gun shall be handed over to the lieutenant-governor of the province in which the conviction takes place, for the public uses thereof in connection with the administration of justice therein. 1925, c. 38, s. 16.

Seizure of  
copper  
coin  
unlawfully  
imported.

**623.** Any two or more justices being satisfied on oath that any copper coin has been unlawfully manufactured or imported shall cause the same to be seized and detained, and shall summon the person in whose possession the same is found, to appear before them.

Forfeiture  
on proof.

2. If it appears to their satisfaction, on evidence, that such copper coin has been manufactured or imported in violation of this Act, such justices shall declare the same forfeited, and shall place the same in safe keeping to await the disposal of the Governor General, for the public uses of Canada. R.S., c. 146, s. 623.

Knowledge.

**624.** If it appears, to the satisfaction of such justices, that the person in whose possession such copper coin was found, knew the same to have been so unlawfully manufactured or imported, they may condemn him to pay the penalty provided by Part IX, for manufacturing or importing copper coin, with costs, and may cause him to be imprisoned for a term not exceeding two months, if such penalty and costs are not forthwith paid. R.S., c. 146, s. 624.

Penalty.

Recovery  
of penalty  
from the  
owner in  
certain  
cases.

**625.** If it appears to the satisfaction of such justices, that the person in whose possession such copper coin was found was not aware of it having been so unlawfully manufactured or imported, the penalty may be recovered from the owner thereof by any person who sues for the same in any court of competent jurisdiction. R.S., c. 146, s. 625.

Officer of  
Customs  
may  
seize the  
coin.

**626.** Any officer of Customs or Excise may seize any copper coin imported or attempted to be imported into Canada in violation of this Act, and may detain the same as forfeited, to await the disposal of the Governor General, for the public uses of Canada. R.S., c. 146, s. 626.

Proceed-  
ings when  
prize-fight  
anticipated.

**627.** If, at any time, the sheriff of any county, place or district in Canada, any chief of police, any police officer, or any constable or other peace officer has reason to believe that any person within his bailiwick or jurisdiction

is about to engage as principal in any prize-fight within Canada, he shall forthwith arrest such person and take him before a justice, and shall forthwith make complaint in that behalf, upon oath, before such justice.

2. Such justice shall inquire into the charge, and if he is satisfied that the person so brought before him was, at the time of his arrest, about to engage as a principal in a prize-fight, he shall require him to enter into a recognizance, with sufficient sureties, in a sum not exceeding five thousand dollars and not less than one thousand dollars, conditioned that he will not engage in any such fight within one year from and after the date of such arrest.

3. In default of such recognizance, the justice before whom the accused has been brought shall commit the accused to the gaol of the county, district or city within which such inquiry takes place, or if there is no common gaol there, then to the common gaol nearest to the place where such inquiry is had, there to remain for the space of one year or until he gives such recognizance with such sureties. R.S., c. 146, s. 627.

**628.** If any sheriff has reason to believe that a prize-fight is taking place or is about to take place within his jurisdiction as such sheriff, or that any persons are about to come into Canada at a point within his jurisdiction, from any place outside of Canada, with intent to engage in, or to be concerned in, or to attend any prize-fight within Canada, he shall forthwith summon a force of the inhabitants of his district or county sufficient for the purpose of suppressing and preventing such fight.

2. Such sheriff shall with their aid, suppress and prevent the same, and arrest all persons present thereat, or who come into Canada as aforesaid, and shall take them before a justice to be dealt with according to law. R.S., c. 146, s. 628.

**629.** Any justice who is satisfied by information upon oath in form 1, that there is reasonable ground for believing that there is in any building, receptacle, or place,

(a) anything upon or in respect of which any offence against this Act has been or is suspected to have been committed;

(b) anything which there is reasonable ground to believe will afford evidence as to the commission of any such offence; or

(c) anything which there is reasonable ground to believe is intended to be used for the purpose of committing any offence against the person for which the offender may be arrested without warrant;

Search  
warrant.

may at any time issue a warrant under his hand authorizing some constable or other person named therein to search such building, receptacle or place, for any such thing, and to seize and carry it before the justice issuing the warrant, or some other justice for the same territorial division to be by him dealt with according to law.

Execution  
of search  
warrants  
outside of  
jurisdiction.

2. If the building, receptacle, or place in which such thing as aforesaid is reputed to be is in some other county or territorial division, the justice may nevertheless issue his warrant in like form modified according to the circumstances, and such warrant may be executed in such other county or territorial division upon being endorsed by some justice of that county or territorial division, such endorsement to be in form 2A, or to the like effect. R.S., c. 146, s. 629; 1909, c. 9, s. 2.

Execution  
of search  
warrant.

**630.** Every search warrant shall be executed by day, unless the justice shall by the warrant authorize the constable or other person to execute it at night.

Form.

2. Every search warrant may be in form 2, or to the like effect. R.S., c. 146, s. 630.

Detention  
of things  
seized.

**631.** When any such thing is seized and brought before a justice, he may detain it, taking reasonable care to preserve it till the conclusion of the investigation; and, if any one is committed for trial, he may order it further to be detained for the purpose of evidence on the trial.

Restora-  
tion.

2. If no one is committed, the justice shall direct such thing to be restored to the person from whom it was taken, except in the cases hereinafter mentioned, unless he is authorized or required by law to dispose of it otherwise. R.S., c. 146, s. 631.

Forged  
bank note,  
etc., found  
may be  
destroyed.

**632.** If under any such warrant there is brought before any justice any forged bank note, bank note-paper, instrument or other thing, the possession whereof in the absence of lawful excuse is an offence under any provision of this or any other Act, the court to which any such person is committed for trial or, if there is no commitment for trial, such justice may cause such thing to be defaced or destroyed.

Counter-  
feit coin  
to be  
defaced.

2. If under any such warrant there is brought before any justice, any counterfeit coin or other thing the possession of which with knowledge of its nature and without lawful excuse is an indictable offence under any provision of Part IX, every such thing so soon as it has been produced in evidence, or so soon as it appears that it will not be required to be so produced, shall forthwith be defaced or otherwise disposed of as the justice or the court directs. R.S., c. 146, s. 632.

**633.** Every person acting in the execution of any such warrant may seize any explosive substance which he has good cause to suspect is intended to be used for any unlawful object, and shall, with all convenient speed, after the seizure, remove the same to such proper place as he thinks fit, and detain the same until ordered by a judge of a superior court to restore it to the person who claims the same. Seizure of explosives.

2. Any explosive substance so seized shall, in the event of the person in whose possession the same is found, or of the owner thereof, being convicted of any offence under any provision of Part II, relating to explosive substances, be forfeited; and the same shall be destroyed or sold under the direction of the court before which such person is convicted. Forfeiture.

3. In the case of sale, the proceeds arising therefrom shall be paid to the Minister of Finance, for the public uses of Canada. Application of proceeds. R.S., c. 146, s. 633.

**634.** If offensive weapons believed to be dangerous to the public peace are seized under a search warrant the same shall be kept in safe custody in such place as the justice directs, unless the owner thereof proves, to the satisfaction of such justice, that such offensive weapons were not kept for any purpose dangerous to the public peace. Offensive weapons seized.

2. Any person from whom any such offensive weapons are so taken may, if the justice upon whose warrant the same are taken, upon application made for that purpose, refuses to restore the same, apply to a judge of a superior or county court for the restitution of such offensive weapons, upon giving ten days' previous notice of such application to such justice; and such judge shall make such order for the restitution or safe custody of such offensive weapons as upon such application appears to him to be proper. Restoration or safe custody. R.S., c. 146, s. 634.

**635.** If goods or things by means of which it is suspected that an offence has been committed against any provision of Part VII, relating to forgery of trade marks and fraudulent marking of merchandise, are seized under a search warrant, and brought before a justice, such justice and one or more other justice or justices shall determine summarily whether the same are or are not forfeited under the said Part. Suspected goods, instruments or things seized.

2. If the owner of any goods or things which, if the owner thereof had been convicted, would be forfeited under this Act, is unknown or cannot be found, an information or complaint may be laid for the purpose only of enforcing such forfeiture, and the said justice may cause notice to be When owner cannot be found.

be advertised stating that unless cause is shown to the contrary at the time and place named in the notice, such goods or things will be declared forfeited.

Forfeiture.

3. At such time and place the justice, unless the owner, or some person on his behalf, or other person interested in the goods or things, shows cause to the contrary may declare such goods or things, or any of them, forfeited. R.S., c. 146, s. 635.

Search for  
public  
stores by  
peace  
officer  
deputed.

**636.** Any constable or other peace officer, if deputed by any public department, may, within the limits for which he is such constable or peace officer, stop, detain and search any person reasonably suspected of having or conveying in any manner any public stores, stolen or unlawfully obtained, or any vessel, boat or vehicle in or on which there is reason to suspect that any public stores stolen or unlawfully obtained may be found.

When  
deemed  
deputed.

2. A constable or other peace officer shall be deemed to be deputed within the meaning of this section if he is deputed by any writing signed by the person who is the head of such department, or who is authorized to sign documents on behalf of such department. R.S., c. 146, s. 636.

Search  
warrant  
for gold,  
silver,  
ore or  
quartz.

**637.** On complaint in writing made to any justice of the county, district or place, by any person interested in any mining claim, that mined gold or gold-bearing quartz, or mined or unmanufactured silver or silver ore, is unlawfully deposited in any place, or held by any person contrary to law, a general search warrant may be issued by such justice, as in the case of stolen goods, including any number of places or persons named in such complaint.

Restoration.

2. If, upon search, any such gold or gold-bearing quartz or silver or silver ore is found to be unlawfully deposited or held, the justice shall make such order for the restoration thereof to the lawful owner as he considers right.

Appeal.

3. The decision of the justice in such case is subject to appeal as in ordinary cases coming within the provisions of Part XV. R.S., c. 146, s. 637.

Timber,  
etc.,  
unlawfully  
detained,  
search for.

**638.** If any constable or other peace officer has reasonable cause to suspect that any timber, mast, spar, saw-log or other description of lumber, belonging to any lumberman or owner of lumber, and bearing the registered trade mark of such lumberman or owner of lumber, is kept or detained in any saw-mill, mill-yard, boom or raft, without the knowledge or consent of the owner, such constable or other peace officer may enter into or upon such saw-mill, mill-yard, boom or raft, and search or examine for the purpose of ascertaining whether such timber, mast, spar, saw-log or other description of lumber is detained therein without such knowledge or consent. R.S., c. 146, s. 638.



**639.** Any officer in His Majesty's service, any warrant or petty officer of the navy, or any non-commissioned officer of marines, with or without seaman or persons under his command, may search any boat or vessel which hovers about or approaches, or which has hovered about or approached, any of His Majesty's ships or vessels mentioned in section one hundred and forty-one, and may seize any intoxicating liquor found on board such boat or vessel; and the liquor so found shall be forfeited to the Crown. Search for liquor near His Majesty's vessels. Forfeiture. R.S., c. 146, s. 639.

**640.** Whenever there is reason to believe that any woman or girl mentioned in section two hundred and sixteen of this Act, has been inveigled or enticed to a house of ill-fame or assignation, then upon complaint thereof being made under oath by the parent, husband, master or guardian of such woman or girl, or in the event of such woman or girl having no known parent, husband, master or guardian in the place in which the offence is alleged to have been committed, by any other person, to any justice, or to a judge of any court authorized to issue warrants in cases of alleged offences against the criminal law, such justice or judge may issue a warrant to enter, by day or night, such house of ill-fame or assignation, and if necessary use force for the purpose of effecting such entry whether by breaking open doors or otherwise, and to search for such woman or girl, and bring her and the person or persons in whose keeping and possession she is, before such justice or judge, who may, on examination, order her to be delivered to her parent, husband, master or guardian, or to be discharged, as law and justice require. Search for women in house of ill-fame. Warrant. R.S., c. 146, s. 640.

**641.** If a constable or other peace officer of any city, town, incorporated village or other municipality or district, organized or unorganized, or place, reports in writing to the mayor or chief magistrate, or to the police, stipendiary or district magistrate of such city, town, incorporated village or other municipality, district, or place, or to any police or stipendiary magistrate having jurisdiction there, or, if there be no such mayor or chief magistrate, or police, stipendiary or district magistrate, to any justice having such jurisdiction, that there are good grounds for believing, and that he does believe, that any house, room or place within the said city or town, incorporated village or other municipality, district or place is kept or used as a disorderly house as defined by section two hundred and twenty-nine, or for betting, wagering or pool selling contrary to the provisions of section two hundred and thirty-five, or for the purpose of carrying on a lottery or for the sale of lottery tickets, or for the purpose

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Order for  
search.

of conducting or carrying on of any scheme, contrivance or operation for the purpose of determining the winners in any lottery contrary to the provisions of section two hundred and thirty-six, whether admission thereto is limited to those possessed of entrance keys or otherwise; such mayor, chief magistrate, police, stipendiary or district magistrate or justice, may, by order in writing, authorize the constable or other peace officer to enter and search any such house, room or place with such other constables or peace officers as are deemed requisite by him, and such peace officer or peace officers may thereupon enter and search all parts of such house, room or place and if necessary may use force for the purpose of effecting such entry, whether by breaking open doors, or otherwise, and may take into custody all persons who are found therein, and may seize all tables and instruments of gaming, wagering or betting and all moneys and securities for money and all instruments or devices for the carrying on of a lottery, or of any scheme, contrivance or operation for determining the winners in any lottery, and all lottery tickets and all intoxicating liquors and all circulars, advertisements, printed matter, stationery and things which may be found in such house or premises which appear to have been used or to be intended for use for any illegal purpose or business, and shall bring the same before the person issuing such order or any justice, to be by him dealt with according to law.

Destruction  
of property  
seized.

2. The person issuing such order, or the justice before whom any person is taken by virtue of an order under this section, may direct that any money or securities for money so seized shall be forfeited to the Crown for the public uses of Canada, and that any other thing seized shall be destroyed or otherwise disposed of: Provided that nothing shall be destroyed or disposed of pending any appeal or any proceeding in which the right of seizure is questioned or before the time within which such appeal or other proceeding may be taken has expired. 1913, c. 13, s. 21; 1925, c. 38, s. 17.

Magistrate  
may require  
any person  
appre-  
hended  
to be  
examined  
on oath.

**642.** The person issuing such order or the justice before whom any person who has been found in any house, room or place, entered in pursuance of any order under the last preceding section, is taken by virtue of such order may require any such person to be examined on oath and to give evidence touching any unlawful gaming in such house, room or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry into such house, room or place, or any part thereof, of any constable or officer authorized to make such entry; and any such person so required to be examined as a witness

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who

who refuses to make oath accordingly, or to answer any question, shall be subject to be dealt with in all respects as any person appearing as a witness before any justice or court in obedience to a summons or subpoena and refusing without lawful cause or excuse to be sworn or to give evidence, may by law, be dealt with. Punishment of persons refusing to give evidence.

2. Every person so required to be examined as a witness, who, upon such examination, makes true disclosure, to the best of his knowledge, of all things as to which he is examined shall receive from the judge, justice, magistrate, examiner or other judicial officer before whom such proceeding is had, a certificate in writing to that effect, and shall be freed from all criminal prosecutions and penal actions, and from all penalties, forfeitures and punishments to which he has become liable for anything done before that time in respect of any act of gaming regarding which he has been so examined, if such certificate states that such witness made a true disclosure in respect to all things as to which he was examined, and any action, indictment or proceedings pending or brought in any court against such witness in respect of any act of gaming regarding which he was so examined, shall be stayed, upon the production and proof of such certificate, and upon summary application to the court in which such action, indictment or proceeding is pending, or any judge thereof, or any judge of any of the superior courts of any province. Persons making a full discovery to be free from all penalties on certificate. Action stayed on certificate.

3. The provisions of this and the last preceding section shall apply to searches in opium joints and to the seizure of devices, pipes or apparatus for preparing for smoking or inhaling, or for smoking or inhaling opium, and all couches, beds and chairs in such joints, and to the proceedings thereupon. R.S., c. 146, s. 642; 1909, c. 9, s. 2. Search and seizure in opium joints.

**643.** Any stipendiary or police magistrate, mayor or warden, or any two justices, upon information before them made, that any person described in Part V as a loose, idle or disorderly person, or vagrant, is or is reasonably suspected to be harboured or concealed in any disorderly house, bawdy-house, house of ill-fame, tavern or boarding-house, may, by warrant, authorize any constable or other person to enter at any time such house or tavern, and to apprehend and bring before them or any other justices, every person found therein so suspected as aforesaid. R.S., c. 146, s. 643. Search warrant for vagrant concealed.

#### *Trials under Special Provisions.*

**644.** The trials of young persons apparently under the age of sixteen years, shall take place without publicity and separately and apart from the trials of other accused persons, and at suitable times to be designated and appointed for that purpose. R.S., c. 146, s. 644. Trial of juveniles.

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**645.**

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Trials may  
be held in  
private in  
certain  
cases.

**645.** At the trial of any person charged with an offence under any of the following sections, that is to say:—Two hundred and two, two hundred and three, two hundred and four, two hundred and five, two hundred and six, two hundred and eleven, two hundred and twelve, two hundred and thirteen, two hundred and fourteen, two hundred and fifteen, two hundred and sixteen, two hundred and seventeen, two hundred and eighteen, two hundred and nineteen, two hundred and twenty, two hundred and twenty-nine in so far as it relates to common bawdy-houses, two hundred and thirty-nine in so far as it relates to paragraph (i) of section two hundred and thirty-eight, two hundred and ninety-two, two hundred and ninety-three, two hundred and ninety-nine, three hundred and three, three hundred and four, three hundred and five, three hundred and six, three hundred and thirteen and three hundred and fourteen, or with conspiracy or attempt to commit, or being an accessory after the fact to any such offence, the court or judge or justice may order that the public be excluded from the room or place in which the court is held during such trial.

Orders for  
exclusion  
of public.

2. Such order may be made in any other case also in which the court or judge or justice may be of opinion that the same will be in the interests of public morals.

Saving.

3. Nothing in this section shall be construed by implication or otherwise as limiting any power heretofore possessed at common law by the presiding judge or other presiding officer of any court of excluding the general public from the court-room in any case when such judge or officer deems such exclusion necessary or expedient. R.S., c. 146, s. 645; 1915, c. 12, s. 7.

## PART XIII

### COMPELLING APPEARANCE OF ACCUSED BEFORE JUSTICES.

#### *Arrest without Warrant.*

By any  
person in  
certain  
cases.

**646.** Any person may arrest without warrant any one who is found committing any of the offences mentioned in sections

(a) seventy-four, treason; seventy-six, accessories after the fact to treason; seventy-seven, seventy-eight and seventy-nine, treasonable offences; eighty, assaults on the King; eighty-one, inciting to mutiny; eighty-five and eighty-six, information illegally obtained or communicated;

(b) ninety-two, offences respecting the reading of the Riot Act; ninety-six, riotous destruction of property; ninety-seven, riotous damage to property;

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(c)

- (c) one hundred and thirty, administering, taking or procuring the taking of oaths to commit certain crimes; one hundred and thirty-one, administering, taking or procuring the taking of other unlawful oaths;
- (d) one hundred and thirty-seven, piracy; one hundred and thirty-eight, piratical acts; one hundred and thirty-nine, piracy with violence;
- (e) one hundred and eighty-five, being at large while under sentence of imprisonment; one hundred and eighty-seven, breaking prison; one hundred and eighty-nine, escape from custody or from prison; one hundred and ninety, escape from lawful custody;
- (f) two hundred and two, unnatural offence;
- (g) two hundred and sixty-three, murder; two hundred and sixty-four, attempt to murder; two hundred and sixty-seven, being accessory after the fact to murder; two hundred and sixty-eight, manslaughter; two hundred and seventy, attempt to commit suicide;
- (h) two hundred and seventy-three, wounding with intent to do bodily harm; two hundred and seventy-four, wounding; two hundred and seventy-six, stupefying in order to commit an indictable offence; two hundred and seventy-nine and two hundred and eighty, injuring or attempting to injure by explosive substances; two hundred and eighty-two, intentionally endangering persons on railways; two hundred and eighty-three, wantonly endangering persons on railways; two hundred and eighty-six, preventing escape from wreck;
- (i) two hundred and ninety-nine, rape; three hundred, attempt to commit rape; three hundred and one, defiling children under fourteen;
- (j) three hundred and thirteen, abduction of a woman;
- (k) three hundred and fifty-eight, theft by agents and others; three hundred and fifty-nine, theft by clerks, servants and others; three hundred and sixty, theft by tenants and lodgers; three hundred and sixty-one, theft of testamentary instruments; three hundred and sixty-two, theft of documents of title; three hundred and sixty-three, theft of judicial or official documents; three hundred and sixty-four, three hundred and sixty-five and three hundred and sixty-six, theft of postal matter; three hundred and sixty-seven, theft of election documents; three hundred and sixty-eight, theft of railway tickets; three hundred and sixty-nine, theft of cattle; three hundred and seventy-one, theft of oysters; three hundred and seventy-two, theft of things fixed to buildings or land; three hundred and seventy-nine, stealing from the person; three hundred and eighty,

stealing in dwelling-houses; three hundred and eighty-one, stealing by picklocks, etc.; three hundred and eighty-two, stealing from ships, docks, wharfs or quays; three hundred and eighty-three, stealing wreck; three hundred and eighty-four, stealing on railways; three hundred and eighty-six, stealing things not otherwise provided for; three hundred and eighty-seven, stealing where value over two hundred dollars; three hundred and eighty-eight, stealing in manufactories; three hundred and ninety, criminal breach of trust; three hundred and ninety-one, public servant refusing to deliver up chattels, money valuables, security, books, papers, accounts or documents; three hundred and ninety-six, destroying, cancelling, concealing or obliterating any documents of title; three hundred and ninety-eight, bringing stolen property into Canada;

(l) three hundred and ninety-nine, receiving property obtained by crime;

(m) four hundred and ten, personation of certain persons;

(n) four hundred and forty-six, aggravated robbery; four hundred and forty-seven, robbery; four hundred and forty-eight, assault with intent to rob; four hundred and forty-nine, stopping the mail; four hundred and fifty, compelling execution of documents by force; four hundred and fifty-one, sending letter demanding with menaces; four hundred and fifty-two, demanding with intent to steal; four hundred and fifty-three, extortion by certain threats;

(o) four hundred and fifty-five, breaking place of worship and committing an indictable offence; four hundred and fifty-six, breaking place of worship with intent to commit an indictable offence; four hundred and fifty-seven, burglary; four hundred and fifty-eight, housebreaking and committing an indictable offence; four hundred and fifty-nine, housebreaking with intent to commit an indictable offence; four hundred and sixty, breaking shop and committing an indictable offence; four hundred and sixty-one, breaking shop with intent to commit an indictable offence; four hundred and sixty-two, being found in a dwelling-house by night; four hundred and sixty-three, being armed, with intent to break a dwelling-house; four hundred and sixty-four, being disguised or in possession of house-breaking instruments;

(p) four hundred and sixty-eight, four hundred and sixty-nine and four hundred and seventy, forgery; four hundred and sixty-seven, uttering forged documents; four hundred and seventy-two, counterfeiting seals;

four hundred and seventy-eight, using probate obtained by forgery or perjury; five hundred and fifty, possessing forged bank notes;

(q) four hundred and seventy-one, making, having or using instrument for forgery or having or uttering forged bond or undertaking; four hundred and seventy-nine, counterfeiting stamps; four hundred and eighty, injuring or falsifying registers;

(r) one hundred and twelve, attempt to damage by explosives; five hundred and ten, mischief; five hundred and eleven, arson; five hundred and twelve, attempt to commit arson; five hundred and thirteen, setting fire to crops; five hundred and fourteen, attempting to set fire to crops; five hundred and seventeen, mischief on railways; five hundred and twenty, mischief to mines; five hundred and twenty-one, injuries to electric telegraphs, magnetic telegraphs, electric lights, telephones and fire alarms; five hundred and twenty-two, wrecking; five hundred and twenty-three, attempting to wreck; five hundred and twenty-six, interfering with marine signals;

(s) five hundred and fifty-two, counterfeiting gold and silver coin; five hundred and fifty-six, making instruments for coining; five hundred and fifty-eight clipping current coin; five hundred and sixty, possessing clippings of current coin; five hundred and sixty-two, counterfeiting copper coin; five hundred and sixty-three, counterfeiting foreign gold and silver coin; five hundred and sixty-seven, uttering copper coin not current. R.S., c. 146, s. 646; 1909, c. 9, s. 2; 1913, c. 13, s. 22.

**647.** A peace officer may arrest, without warrant,

(a) any one who has committed any of the offences mentioned in the sections set forth in the last preceding section, or in section four hundred and five, obtaining by false pretense; subsection one of section four hundred and six, obtaining execution of valuable securities by false pretense; sections five hundred and twenty-five, injuring dams, etc., or blocking timber channel; five hundred and thirty-six, attempting to injure or poison cattle; five hundred and forty-two, cruelty to animals; five hundred and forty-three, keeping cock-pit; five hundred and fifty-five, exporting counterfeit coin; five hundred and sixty-one, possessing counterfeit current coin; five hundred and sixty-three, paragraph (b), bringing into Canada or possessing counterfeit foreign gold or silver coin; five hundred and sixty-three paragraph (d), counterfeiting foreign copper coin; or

By peace officer in the above and other cases.

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(b)

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Procuring. (b) any person whom he has good cause to suspect of having committed or being about to commit any of the offences mentioned in section two hundred and sixteen. R.S., c. 146, s. 647; 1913, c. 13, s. 23.

By peace officer. **648.** A peace officer may arrest, without warrant, any one whom he finds committing any criminal offence.

By any person by night. 2. Any person may arrest, without warrant, any one whom he finds committing any criminal offence by night. R.S., c. 146, s. 648.

By any person on fresh pursuit. **649.** Any one may arrest without warrant a person whom he, on reasonable and probable grounds, believes to have committed a criminal offence and to be escaping from, and to be freshly pursued by, those whom the person arresting, on reasonable and probable grounds, believes to have lawful authority to arrest such person. R.S., c. 146, s. 649.

By owner of property. **650.** The owner of any property on or with respect to which any person is found committing any criminal offence, or any person authorized by such owner, may arrest, without warrant, the person so found, who shall forthwith be taken before a justice to be dealt with according to law. R.S., c. 146, s. 650.

By officer in His Majesty's service. **651.** Any officer in His Majesty's service, any warrant or petty officer in the navy, and any non-commissioned officer of marines may arrest without any warrant any person found committing any of the offences mentioned in section one hundred and forty-one. R.S., c. 146, s. 651.

By peace officer. **652.** Any peace officer may, without a warrant, take into custody any person whom he finds lying or loitering in any highway, yard or other place during the night, and whom he has good cause to suspect of having committed or being about to commit, any indictable offence, and may detain such person until he can be brought before a justice to be dealt with according to law.

When to be brought before Justice. 2. No person who has been so apprehended shall be detained after noon of the following day without being brought before a justice. R.S., c. 146, s. 652.

#### *Procedure—Summons or Warrant.*

Summons or warrant by justice in what cases. **653.** Every justice may issue a warrant or summons as hereinafter mentioned to compel the attendance of an accused person before him, for the purpose of preliminary inquiry in any of the following cases:—

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(a)

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- (a) If such person is accused of having committed in any place whatever an indictable offence triable in the province in which such justice resides, and is, or is suspected to be, within the limits over which such justice has jurisdiction, or resides or is suspected to reside within such limits;
- (b) If such person, wherever he may be, is accused of having committed an indictable offence within such limits;
- (c) If such person is alleged to have anywhere unlawfully received property which was unlawfully obtained within such limits;
- (d) If such person has in his possession, within such limits, any stolen property. R.S., c. 146, s. 653.

**654.** Any one who, upon reasonable or probable grounds believes that any person has committed an indictable offence under this Act may make a complaint or lay an information in writing and under oath before any magistrate or justice having jurisdiction to issue a warrant or summons against such accused person in respect of such offence. Informa-  
tion or  
complaint.

2. Such complaint or information may be in form 3, or Form. to the like effect. R.S., c. 146, s. 654.

**655.** Upon receiving any such complaint or information the justice shall hear and consider the allegations of the complainant and, if the justice considers it desirable or necessary, the evidence of any witness or witnesses; and if the justice is of opinion that a case for so doing is made out he shall issue a summons or warrant, as the case may be, in manner hereinafter provided. Summons  
or warrant.

2. Such justice shall not refuse to issue such summons or warrant only because the alleged offence is one for which an offender may be arrested without warrant. Process  
com-  
pulsory.

3. The justice shall in connection with such hearing have the same power of procuring the attendance of witnesses and of compelling them to testify as under Part XIV. Attendance  
of  
witnesses.

4. The evidence of witnesses, if any, at such hearing shall be given upon oath, and the evidence of each witness shall be taken down in writing in the form of a deposition, and, subject to the provisions of section six hundred and eighty-three, which, so far as applicable, shall apply to such hearing, shall be read over to and signed by the witness and signed by the justice. R.S., c. 146, s. 655; 1909, c. 9, s. 2; 1913, c. 13, s. 24. Evidence  
on oath,  
and in  
writing.

Warrant  
in cases of  
offence  
committed  
on the  
seas, etc.

**656.** Whenever any indictable offence is committed on the high seas, or in any creek, harbour, haven or other place in which the Admiralty of England have or claim to have jurisdiction, and whenever any offence is committed on land beyond the seas for which an indictment may be preferred or the offender may be arrested in Canada, any justice for any territorial division in which any person charged with, or suspected of having committed any such offence is, or is suspected to be, may issue his warrant, in form 4, or to the like effect, to apprehend such person to be dealt with as herein and hereby directed. R.S., c. 146, s. 656.

Form.

Arrest of  
suspected  
deserter.

**657.** Every one who is reasonably suspected of being a deserter from His Majesty's service may be apprehended and brought for examination before any justice, and if it appears that he is a deserter he shall be confined in gaol until claimed by the military or naval authorities or proceeded against according to law.

Breaking  
open  
buildings,  
not without  
warrant.

2. No one shall break open any building to search for a deserter unless he has obtained a warrant for that purpose from a justice, founded on affidavit that there is reason to believe that the deserter is concealed in such building, and that admittance has been demanded and refused.

Resisting  
warrant.

3. Every one who resists the execution of any such warrant shall incur a penalty of eighty dollars, recoverable on summary conviction, before two justices. R.S., c. 146, s. 657.

Summons.

**658.** Every summons issued by a justice under this Act shall be directed to the accused, and shall require him to appear at a time and place to be therein mentioned.

Form.

2. Such summons may be in form 5, or to the like effect.

In blank.

3. No summons shall be signed in blank.

Service.

4. Every such summons shall be served by a constable or other peace officer upon the person to whom it is directed, either by delivering it to him personally or, if such person cannot conveniently be met with, by leaving it for him at his last or most usual place of abode with some inmate thereof apparently not under sixteen years of age.

Proof of  
service.

5. The service of any such summons may be proved by the oral testimony of the person effecting the same or by the affidavit of such person purporting to be made before a justice. R.S., c. 146, s. 658.

Warrant  
for  
apprehen-  
sion.

**659.** The warrant issued by a justice for the apprehension of the person against whom an information or complaint has been laid as provided in section six hundred and fifty-four may be in form 6, or to the like effect.

2. No such warrant shall be signed in blank. R.S., In blank.  
c. 146, s. 659.

**660.** Every warrant shall be under the hand of the justice issuing the same, and may be directed, either to any constable by name, or to such constable and all other constables within the territorial jurisdiction of the justice issuing it, or generally to all constables within such jurisdiction. Formalities of warrant.

2. The warrant shall state shortly the offence for which it is issued, and shall name or otherwise describe the offender, and it shall order the constable or constables to whom it is directed to apprehend the offender and bring him before the justice or justices issuing the warrant, or before some other justice or justices, to answer to the charge contained in the information or complaint, and to be further dealt with according to law. Statement of offence.

3. It shall not be necessary to make such warrant returnable at any particular time, but the same shall remain in force until it is executed. No return day.

4. The fact that a summons has been issued shall not prevent any justice from issuing a warrant at any time before or after the time mentioned in the summons for the appearance of the accused. Summons not to prevent warrant.

5. In case the service of the summons has been proved and the accused does not appear, or when it appears that the summons cannot be served, a warrant in form 7 may issue. R.S., c. 146, s. 660; 1921, c. 25, s. 21. Warrant in default. Form.

**661.** Every such warrant may be executed by arresting the accused wherever he is found in the territorial jurisdiction of the justice by whom it is issued, or, in the case of fresh pursuit, at any place in an adjoining territorial division within seven miles of the border of the first-mentioned division. Where and how executed.

2. Every such warrant may be executed by any constable named therein or by any one of the constables to whom it is directed, whether or not the place in which it is to be executed is within the place for which he is a constable. By whom.

3. Every warrant authorized by this Act may be issued and executed on a Sunday or statutory holiday. R.S., c. 146, s. 661. On holiday.

**662.** If the person against whom any warrant has been issued cannot be found within the jurisdiction of the justice by whom the same was issued, but is or is suspected to be in any other part of Canada, any justice within whose jurisdiction Endorsement of warrant.

jurisdiction he is or is suspected to be, upon proof being made on oath or affirmation of the handwriting of the justice who issued the same, shall make an endorsement on the warrant, signed with his name, authorizing the execution thereof within his jurisdiction.

Effect of.

2. Such endorsement shall be sufficient authority to the person bringing such warrant, and to all other persons to whom the same was originally directed, and also to all constables of the territorial division where the warrant has been so endorsed, to execute the same therein and to carry the person against whom the warrant issued when apprehended, before the justice who issued the warrant, or before some other justice for the same territorial division.

Form.

3. Such endorsement may be in form 8.

Proceedings upon warrant for apprehension where offender in prison.

4. If the person against whom such warrant has been issued is then confined for some other cause in any prison within the province then, upon application to the judge of any superior, county or district court, and upon production to him of the warrant with an affidavit setting forth the above facts, such judge if he is satisfied that the ends of justice require it, may make an order in writing addressed to the warden or keeper of such prison, or to the sheriff or other person having the custody of the prisoner, to bring up the body of such person before the justice who is holding the preliminary inquiry, from day to day, as may be necessary for the purposes of such inquiry, and such warden, keeper, sheriff or other person, upon being paid his reasonable charges in that behalf, shall obey such order.

Proceedings upon warrant, to enforce attendance of prisoner confined in another province.

5. If the person against whom such warrant is issued is then confined for some other cause in any prison within another province then, upon application to the judge of any superior, county or district court having jurisdiction in the place where the prisoner is confined, and upon production to him of the warrant with an affidavit setting forth the facts, such judge, if satisfied that the ends of justice require it, may, by order in writing addressed to the warden or keeper of such prison, or to the sheriff or other person having the custody of the prisoner, direct him to bring up the body of such person before the justice who is holding the preliminary inquiry from day to day as may be necessary for the purposes of such inquiry, and at the place and within the province wherein the warrant was issued, and such warden, keeper, sheriff or other person upon being paid his reasonable charges in that behalf shall obey the order: Provided that no such order shall be granted unless notice of the application therefor shall have been served upon the Attorney General of the province in which the prisoner is confined within a reasonable time before the making of the application.

Notice to Attorney-General.

6. Where any order is granted under the provisions of the last preceding subsection, the judge may, by such order or by such further or other order as he may deem requisite, from time to time, give directions as to the manner in which such person shall be kept in custody and returned to prison to serve the remainder of his original sentence, in case he be discharged or acquitted of the offence in respect of which such warrant was issued, or may make such other directions as in the circumstances of the case he may see fit. R.S., c. 146, s. 662; 1909, c. 9, s. 2; 1925, c. 38, s. 18.

In case of  
acquittal.

**663.** If the prosecutor or any of the witnesses for the prosecution are in the territorial division where such person has been apprehended upon a warrant endorsed as provided in the last preceding section, the constable or other person or persons who have apprehended him may, if so directed by the justice endorsing the warrant, take him before such justice, or before some other justice for the same territorial division; and the said justice may thereupon take the examination of such prosecutor or witnesses, and proceed in every respect as if he had himself issued the warrant. R.S., c. 146, s. 663.

Procedure  
on arrest  
under  
endorsed  
warrant.

**664.** When any person is arrested upon a warrant he shall, except in the case provided for in the last preceding section, be brought as soon as is practicable before the justice who issued it or some other justice for the same territorial division, and such justice shall either proceed with the inquiry or postpone it to a future time, in which latter case he shall either commit the accused person to proper custody or admit him to bail or permit him to be at large on his own recognizance according to the provisions hereinafter contained. R.S., c. 146, s. 664.

Procedure  
in other  
cases of  
person  
arrested  
on warrant.

**665.** The preliminary inquiry may be held either by one justice or by more justices than one.

Preliminary  
inquiry.

2. If the accused person is brought before any justice charged with an offence committed out of the limits of the jurisdiction of such justice, such justice may, after hearing both sides, order the accused at any stage of the inquiry to be taken by a constable before some justice having jurisdiction in the place where the offence was committed.

Offence  
committed  
out of  
jurisdic-  
tion.

Proceedings.

3. The justice so ordering shall give a warrant for that purpose to a constable, which may be in form 9, or to the like effect, and shall deliver to such constable the information, depositions and recognizances, if any, taken under the provisions of this Act, to be delivered to the justice before whom the accused person is to be taken, and such

Offender  
taken  
before  
justice  
where  
offence  
committed.

depositions and recognizances shall be treated to all intents as if they had been taken by the last-mentioned justice. R.S., c. 146, s. 665.

*Idem.*

**666.** Upon the constable delivering to the justice the warrant, information, if any, depositions and recognizances, and proving on oath or affirmation, the handwriting of the justice who has subscribed the same, such justice, before whom the accused is produced, shall thereupon furnish such constable with a receipt or certificate in form 10, of his having received from him the body of the accused, together with the warrant, information, if any, depositions and recognizances, and of his having proved to him, upon oath or affirmation, the handwriting of the justice who issued the warrant.

*Form.*

*Idem.*

2. If such justice does not commit the accused for trial, or hold him to bail, the recognizances taken before the first mentioned justice shall be void. R.S., c. 146, s. 666.

*Coroner's inquisition.*

**667.** Every coroner, upon any inquisition taken before him whereby any person is charged with manslaughter or murder, shall, if the person or persons, or either of them, affected by the verdict or finding is not already charged with the said offence before a magistrate or justice, by warrant under his hand, direct that such person be taken into custody and be conveyed, with all convenient speed, before a magistrate or justice; or such coroner may direct such person to enter into a recognizance before him, with or without a surety or sureties, to appear before a magistrate or justice.

*Warrant or recognizance.*

*Transmitting depositions.*

2. In either case, it shall be the duty of the coroner to transmit to such magistrate or justice the depositions taken before him in the matter.

*Procedure.*

3. Upon any such person being brought or appearing before any such magistrate or justice, he shall proceed in all respects as though such person had been brought or had appeared before him upon a warrant or summons. R.S., c. 146, s. 667.

## PART XIV.

### PROCEDURE ON APPEARANCE OF ACCUSED BEFORE JUSTICE.

#### *Jurisdiction.*

*Inquiry by justice.*

**668.** When any person accused of an indictable offence is before a justice, whether voluntarily or upon summons, or after being apprehended with or without warrant, or while in custody for the same or any other offence, the justice shall proceed to inquire into the matters charged against such person in the manner hereinafter directed. R.S., c. 146, s. 668.

**669.** No irregularity or defect in the substance or form of the summons or warrant, and no variance between the charge contained in the summons or warrant and the charge contained in the information, or between either and the evidence adduced on the part of the prosecution at the inquiry, shall affect the validity of any proceeding at or subsequent to the hearing. R.S., c. 146, s. 669.

Irregularity or variance not to affect validity.

**670.** If it appears to the justice that the person charged has been deceived or misled by any such variance in any summons or warrant, he may adjourn the hearing of the case to some future day, and in the meantime may remand such person, or admit him to bail as hereinafter mentioned. R.S., c. 146, s. 670.

Adjournment in case of.

*Procuring Attendance of Witnesses.*

**671.** If it appears to the justice that any person being or residing within the province is likely to give material evidence either for the prosecution or for the accused on such inquiry he may issue a summons under his hand, requiring such person to appear before him at a time and place mentioned therein to give evidence respecting the charge, and to bring with him any documents in his possession or under his control relating thereto.

Summons for witness.

2. Such summons may be in form 11, or to the like effect. R.S., c. 146, s. 671.

Form.

**672.** Every such summons shall be served by a constable or other peace officer upon the person to whom it is directed either personally, or, if such person cannot conveniently be met with, by leaving it for him at his last or most usual place of abode with some inmate thereof apparently not under sixteen years of age. R.S., c. 146, s. 672.

Service of summons for witness.

**673.** If any one to whom such last-mentioned summons is directed does not appear at the time and place appointed thereby, and no just excuse is offered for such non-appearance, then after proof upon oath that such summons has been served as aforesaid, or that the person to whom the summons is directed is keeping out of the way to avoid service, the justice before whom such person ought to have appeared, if satisfied by proof on oath that such person is likely to give material evidence, may issue a warrant under his hand to bring such person at a time and place to be therein mentioned before him or any other justice in order to testify as aforesaid.

Warrant for witness after summons.

2. The warrant may be in form 12, or to the like effect. R.S., c. 146, s. 673.

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Execution.  
Endorse-  
ment.

3. Such warrant may be executed anywhere within the territorial jurisdiction of the justice by whom it is issued, or, if necessary, endorsed as provided in section six hundred and sixty-two and executed anywhere in the province out of such jurisdiction. R.S., c. 146, s. 673.

Procedure  
against  
defaulting  
witness.

**674.** If a person summoned as a witness under the provisions of this Part is brought before a justice on a warrant issued in consequence of refusal to obey the summons, such person may be detained on such warrant before the justice who issued the summons, or before any other justice in and for the same territorial division who shall then be there, or in the common gaol, or any other place of confinement, or in the custody of the person having him in charge, with a view to secure his presence as a witness on the day fixed for the trial, or, in the discretion of the justice, released on recognizance, with or without sureties, conditioned for his appearance to give evidence as therein mentioned, and to answer as for contempt for his default in not attending upon the said summons.

Penalty  
for  
contempt.

2. The justice may, in a summary manner, examine into and dispose of the charge of contempt against such person, who, if found guilty, shall be liable to a fine not exceeding twenty dollars, or to imprisonment in the common gaol, without hard labour, for a term, not exceeding one month, or to both such fine and imprisonment, and may also be ordered to pay the costs incident to the service and execution of the said summons and warrant and of his detention in custody.

Form of  
conviction.

3. The conviction under this section may be in form 13. R.S., c. 146, s. 674.

Warrant  
for witness  
in first  
instance.

**675.** If the justice is satisfied by evidence on oath that any person within the province, likely to give material evidence either for the prosecution or for the accused, will not attend to give evidence without being compelled so to do, then instead of issuing a summons, he may issue a warrant in the first instance.

Form, etc.

2. Such warrant may be in form 14, or to the like effect, and may be executed anywhere within the jurisdiction of such justice, or, if necessary, endorsed as provided in section six hundred and sixty-two and executed anywhere in the province out of such jurisdiction. R.S., c. 146, s. 675.

Witness  
beyond  
jurisdiction.

**676.** If there is reason to believe that any person residing anywhere in Canada out of the province who is not within the province, is likely to give material evidence either for the prosecution or for the accused, any judge of a superior court or a county court, on application therefor by the informant or complainant, or the Attorney General,

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eral, or by the accused person or his solicitor or some person authorized by the accused, may cause a writ of subpoena to be issued under the seal of the court of which he is a judge, requiring such person to appear before the justice before whom the inquiry is being held or is intended to be held at a time and place mentioned therein to give evidence respecting the charge and to bring with him any documents in his possession or under his control relating thereto. Subpœna.

2. Such subpoena shall be served personally upon the person to whom it is directed, and an affidavit of such service by a person effecting the same purporting to be made before a justice, shall be sufficient proof thereof. R.S., c. 146, s. 676. Service and proof.

**677.** If the person served with a subpoena as provided by the last preceding section, does not appear at the time and place specified therein, and no just excuse is offered for his non-appearance, the justice holding the inquiry, after proof upon oath that the subpoena has been served, may issue a warrant under his hand directed to any constable or peace officer in the district, county or place where such person is, or to all constables or peace officers in such district, county or place, directing him, them or any of them to arrest such person and bring him before the said justice or any other justice at a time and place mentioned in such warrant in order to testify as aforesaid. Warrant for defaulting witness.

2. The warrant may be in form 15, or to the like effect; and if necessary, may be endorsed in the manner provided by section six hundred and sixty-two and executed in a district, county or place other than the one therein mentioned. R.S., c. 146, s. 677. Form. Endorsement.

### *Hearing and Connected Procedure.*

**678.** Whenever any person appearing, either in obedience to a summons or subpoena, or by virtue of a warrant, or being present and being verbally required by the justice to give evidence, refuses to be sworn, or having been sworn, refuses to answer such questions as are put to him, or refuses or neglects to produce any documents which he is required to produce, or refuses to sign his depositions without in any such case offering any just excuse for such refusal, such justice may adjourn the proceedings for any period not exceeding eight clear days, and may in the meantime by warrant in form 16, or to the like effect, commit the person so refusing to gaol, unless he sooner consents to do what is required of him. Witness refusing to be examined.

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Commitment to gaol.

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Further  
commit-  
ment.

2. If such person, upon being brought up upon such adjourned hearing, again refuses to do what is required of him, the justice, if he sees fit, may again adjourn the proceedings, and commit him for the like period, and so again from time to time until such person consents to do what is required of him.

Saving.

3. Nothing in this section shall prevent such justice from sending any such case for trial, or otherwise disposing of the same in the meantime, according to any other sufficient evidence taken by him. R.S., c. 146, s. 678.

Preliminary  
inquiry.

**679.** A justice holding a preliminary inquiry may in his discretion

Powers of  
justice.

(a) permit or refuse permission to the prosecutor, his counsel or attorney, to address him in support of the charge, either by way of opening or summoning up the case, or by way of reply upon any evidence which may be produced by the person accused;

Addresses.

Further  
evidence.

(b) receive further evidence on the part of the prosecutor after hearing any evidence given on behalf of the accused;

Adjourn-  
ment of  
hearing.

(c) adjourn the hearing of the matter from time to time, and change the place of hearing, if from the absence of witnesses, the inability of a witness who is ill to attend at the place where the justice usually sits, or from any other reasonable cause, it appears desirable to do so, and may remand the accused, if required, by warrant in form 17: Provided that no such remand shall be for more than eight clear days, the day following that on which the remand is made being counted as the first day;

Inquiry  
may be  
private.

(d) order that no person other than the prosecutor and accused, their counsel and solicitors shall have access to or remain in the room or building in which the inquiry is held, if it appears to him that the ends of justice will be best answered by so doing;

Regulating  
course of  
inquiry.

(e) regulate the course of the inquiry in any way which may appear to him desirable, and which is not inconsistent with the provisions of this Act.

Verbal  
remand for  
three days.  
Custody of  
accused.

2. If any remand under this section is for a time not exceeding three clear days the justice may verbally order the constable or other person in whose custody the accused then is, or any other constable or person named by the justice in that behalf, to keep the accused person in his custody and to bring him before him or such other justice as shall then be acting at the time appointed for continuing the examination. R.S., c. 146, s. 679.

**680.** The justice may order the accused person to be brought before him, or before any other justice for the same territorial division, at any time before the expiration of the time for which such person has been remanded, and the gaoler or officer in whose custody he then is shall duly obey such order. R.S., c. 146, s. 680.

**681.** If the accused is remanded as aforesaid, the justice may discharge him, upon his entering into a recognizance in form 18, with or without sureties in the discretion of the justice, conditioned for his appearance at the time and place appointed for the continuance of the examination. R.S., c. 146, s. 681.

**682.** When the accused is before a justice holding an inquiry, such justice shall take the evidence of the witnesses called on the part of the prosecution.

2. The evidence of the said witnesses shall be given upon oath and in the presence of the accused; and the accused, his counsel or solicitor, shall be entitled to cross-examine them.

3. The evidence of each witness shall be taken down in writing in the form of a deposition, which may be in form 19, or to the like effect.

4. Such deposition shall in the presence of the accused, and of the justice, at some time before the accused is called on for his defence, be read over to and signed by the witness and the justice.

5. The signature of the justice may either be at the end of the deposition of each witness, or at the end of several or of all the depositions in such a form as to show that the signature is meant to authenticate each separate deposition. R.S., c. 146, s. 682.

**683.** Every justice holding a preliminary inquiry shall cause the depositions to be written in a legible hand and on one side only of each sheet of paper on which they are written: Provided that the evidence upon such inquiry or any part of the same may be taken in shorthand by a stenographer who may be appointed by the justice and who before acting shall, unless he is a duly sworn official court stenographer, make oath that he shall truly and faithfully report the evidence.

2. Where evidence is so taken, it shall not be necessary that such evidence be read over to or signed by the witness, but it shall be sufficient if the transcripts be signed by the justice and be accompanied by an affidavit of the court stenographer, or if the stenographer is a duly sworn court stenographer by the stenographer's certificate that it is a true report of the evidence. 1913, c. 13, s. 25.

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**684.**

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Reading  
deposition  
on pre-  
liminary  
inquiry.

**684.** After the examination of the witnesses produced on the part of the prosecution has been completed, the justice, unless he discharges the accused person, shall ask him, if the evidence has not been taken in shorthand, whether he wishes the depositions to be read again, and unless the accused dispenses therewith shall read or cause them to be read again.

Accused to  
be  
addressed.  
In these  
words.

2. The justice shall then address the accused in these words, or to the like effect:—

Having heard the evidence, do you wish to say anything in answer to the charge? You are not bound to say anything, but whatever you do say will be taken down in writing and may be given in evidence against you at your trial. You must clearly understand that you have nothing to hope from any promise or favour and nothing to fear from any threat which may have been held out to you to induce you to make any admission or confession of guilt, but whatever you now say may be given in evidence against you at your trial notwithstanding such promise or threat.

Statement  
of accused.  
Form.

3. Whatever the accused then says in answer thereto shall be taken down in writing in form 20, or to the like effect, and shall be signed by the justice and kept with the depositions of the witnesses and dealt with as hereinafter provided. R.S., c. 146, s. 684; 1921, c. 25, s. 14.

Confession  
or admis-  
sion of  
accused.

**685.** Nothing herein contained shall prevent any prosecutor from giving in evidence any admission or confession, or other statement, made at any time by the person accused or charged, which by law would be admissible as evidence against him. R.S., c. 146, s. 685.

Witnesses  
for the  
defence.

**686.** After the proceedings required by section six hundred and eighty-four are completed the accused shall be asked if he wishes to call any witnesses.

Evidence  
to be  
taken  
down.

2. Every witness called by the accused who testifies to any fact relevant to the case shall be heard, and his deposition shall be taken in the same manner as the deposition of the witnesses for the prosecution. R.S., c. 146, s. 686.

#### *Adjudication and subsequent steps and Bail.*

Accused  
discharged  
if no case.

**687.** When all the witnesses on the part of the prosecution and the accused have been heard the justice shall, if upon the whole of the evidence he is of opinion that no sufficient case is made out to put the accused upon his trial, discharge him.

Recogniz-  
ances void.

2. In such case any recognizances taken in respect of the charge shall become void, unless some person is bound over to prosecute under the provisions of the next following section. R.S., c. 146, s. 687.

**688.** If the justice discharges the accused, and the person preferring the charge desires to prefer an indictment respecting the said charge, he may require the justice to bind him over to prefer and prosecute such an indictment, and thereupon the justice shall take his recognizance to prefer and prosecute an indictment against the accused before the court by which such accused would be tried if such justice had committed him, and the justice shall deal with the recognizance, information and depositions in the same way as if he had committed the accused for trial. Prosecutor may be bound over to prosecute.

2. Such recognizance may be in form 21, or to the like effect. R.S., c. 146, s. 688. Recognizance.

**689.** If the prosecutor so bound over at his own request does not prefer and prosecute such an indictment, or if the grand jury does not find a true bill, or if the accused is not convicted upon the indictment so preferred, the prosecutor shall, if the court so direct, pay to the accused person his costs, including the costs of his appearance on the preliminary inquiry. Prosecutor ordered to pay costs, when.

2. The court before which the indictment is to be tried or a judge thereof may in its or his discretion order that the prosecutor shall not be permitted to prefer any such indictment until he has given security for such costs to the satisfaction of such court or judge. R.S., c. 146, s. 689. Security for costs may be ordered.

**690.** If a justice holding a preliminary inquiry thinks that the evidence is sufficient to put the accused on his trial, he shall commit him for trial by a warrant of commitment, which may be in form 22, or to the like effect. R.S., c. 146, s. 690. Committal of accused for trial.

**691.** Every one who has been committed for trial, whether he is bailed out or not, shall be entitled at any time before the trial to have copies of the depositions, and of his own statement, if any, from the officer who has custody thereof, on payment of a reasonable sum not exceeding five cents for each folio of one hundred words. R.S., c. 146, s. 691. Accused entitled to copy of depositions.

**692.** When any one is committed for trial the justice holding the preliminary inquiry may bind over to prosecute some person willing to be so bound, and bind over every witness whose deposition has been taken, and whose evidence in his opinion is material, to give evidence at the court before which the accused is to be indicted. Recognizances to prosecute or give evidence.

2. Every recognizance so entered into shall specify the name and surname of the person entering into it, his occupation or profession, if any, the place of his residence and the Contents of.

the name and number, if any, of any street in which it may be, and whether he is owner or tenant thereof or a lodger therein.

**Forms.**

3. Such recognizance may be either at the foot of the deposition or separate therefrom, and may be in form 23, 24 or 25, or to the like effect, and shall be acknowledged by the person entering into the same, and be subscribed by the justice or one of the justices before whom it is acknowledged.

**Obligation of recognizance.**

4. Every such recognizance shall bind the person entering into it to prosecute or give evidence, both or either as the case may be, before the court by which the accused shall be tried.

**Sureties or deposit for appearance of witness without means.**

5. If it is made to appear to the justice that any person to be so bound over as a witness is without means or without sufficient means, or if other reasons therefor satisfactory to him are shown, the justice may require that a surety or sureties be procured and produced and join in the recognizance, or that a sum of money be deposited with the justice, sufficient in his opinion to insure the appearance of such person at the trial and the giving of his evidence. R.S., c. 146, s. 692; 1909, c. 9, s. 2.

**Warrant for arrest of absconding witness.**

**693.** Whenever any person is bound by recognizance to give evidence before a justice, or any criminal court, in respect of any offence under this Act, any justice, if he sees fit, upon information being made in writing and on oath, that such person is about to abscond, or has absconded, may issue his warrant for the arrest of such person.

**Committal to give evidence.**

2. If such person is arrested, any justice, upon being satisfied that the ends of justice would otherwise be defeated, may commit such person to prison until the time at which he is bound by such recognizance to give evidence, unless in the meantime he produces sufficient sureties.

**Copy of information.**

3. Any person so arrested shall be entitled on demand to receive a copy of the information upon which the warrant for his arrest was issued. R.S., c. 146, s. 693.

**Witness refusing to be bound over.**

**694.** Any witness who refuses to enter into or acknowledge any such recognizance as aforesaid may be committed by the justice holding the inquiry by a warrant in form 26, or to the like effect, to the prison for the place where the trial is to be had, there to be kept until after the trial, or until the witness enters into such recognizance as aforesaid before a justice having jurisdiction in the place where the prison is situated.

2. If the accused is afterwards discharged any justice having such jurisdiction may order any such witness to be discharged by an order which may be in form 27, or to the like effect. R.S., c. 146, s. 694. Discharge of witness.

**695.** The information, if any, the depositions of the witnesses, the exhibits thereto, the statement of the accused, and all recognizances entered into, and also any depositions taken before a coroner if any such have been sent to the justice, shall as soon as may be after the committal of the accused, be transmitted to the clerk or other proper officer of the court by which the accused is to be tried. Transmission of record to clerk of court.

2. When any order changing the place of trial is made the person obtaining it shall serve it, or an office copy of it, upon the person then in possession of the said documents, who shall thereupon transmit them and the indictment, if found, to the officer of the court before which the trial is to take place. R.S., c. 146, s. 695. To other officer when place of trial changed.

**696.** When any person appears before any justice charged with an indictable offence punishable by imprisonment for more than five years, other than treason or an offence punishable with death or an offence under any of the sections, seventy-six to eighty-six inclusive, and the evidence adduced is, in the opinion of such justice, sufficient to put the accused on his trial, but does not furnish such a strong presumption of guilt as to warrant his committal for trial, the justice, jointly with some other justice, may admit the accused to bail upon his procuring and producing such surety or sureties as, in the opinion of the two justices, will be sufficient to ensure his appearance at the time and place when and where he ought to be tried for the offence; and thereupon the two justices shall take the recognizances of the accused and his sureties, conditioned for his appearance at the time and place of trial, and that he will then surrender and take his trial and not depart the court without leave. Rule as to bail. When two justices may admit.

2. In any case in which the offence committed or suspected to have been committed is an offence punishable by imprisonment for a term less than five years any one justice before whom the accused appears may admit to bail in manner aforesaid, and such justice or justices may, in his or their discretion, require such bail to justify upon oath before him or them as to their sufficiency. One justice may admit, when.

3. In default of such person procuring sufficient bail, such justice or justices may commit him to prison, there to be kept until delivered according to law. Committal on default.

4. The recognizance mentioned in this section shall be in form 28. R.S., c. 146, s. 696. Form.

Appear-  
ance at  
court of  
sessions of  
the peace.

**697.** Where the offence is one triable by the court of general or quarter sessions of the peace and the justice is of opinion that it may better or more conveniently be so tried, the condition of the recognizance may be for the appearance of the accused at the next sittings of that court notwithstanding that a sitting of a superior court of criminal jurisdiction capable of trying the offence intervenes. R.S., c. 146, s. 697.

Bail after  
committal.

**698.** In case of any offence other than treason or an offence punishable with death, or an offence under any of the sections, seventy-six to eighty-six inclusive, where the accused has been finally committed as herein provided, any judge of any superior or county court, having jurisdiction in the district or county within the limits of which the accused is confined, may, in his discretion, on application made to him for that purpose, order the accused to be admitted to bail on entering into a recognizance with sufficient sureties before two justices, in such amount as the judge directs, and thereupon the justices shall issue a warrant of deliverance as hereinafter provided, and shall attach thereto the order of the judge directing the admitting the accused to bail.

Order for.

By two  
justices.

Warrant.

Form.

2. Such warrant of deliverance shall be in form 29. R.S., c. 146, s. 698.

Bail by  
superior  
court.

**699.** No judge of a county court or justices shall admit any person to bail accused of treason or an offence punishable with death, or an offence under any of the sections, seventy-six to eighty-six inclusive, nor shall any such person be admitted to bail, except by order of a superior court of criminal jurisdiction for the province in which the accused stands committed, or of one of the judges thereof, or, in the province of Quebec, by order of a judge of the Court of King's Bench or Superior Court. R.S., c. 146, s. 699; 1908, c. 18, s. 8.

Bail after  
committal.

Notice to  
justice.

**700.** When any person has been committed for trial by any justice, the prisoner, his counsel, solicitor or agent may notify the committing justice that he will, as soon as counsel can be heard, move before a superior court of the province in which such person stands committed, or one of the judges thereof, or the judge of the county court, if it is intended to apply to such judge, under section six hundred and ninety-eight, for an order to the justice to admit such prisoner to bail.

Record to  
be trans-  
mitted.

2. Such committing justice shall, as soon as may be, after being so notified, transmit to the clerk of the Crown, or the chief clerk of the court, or the clerk of the county court, or other proper officer, as the case may be, endorsed

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under

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under his hand and seal, a certified copy of all informations, examinations and other evidence touching the offence wherewith the prisoner has been charged, together with a copy of the warrant of commitment, and the packet containing the same shall be handed to the person applying therefor for transmission, and it shall be certified on the outside thereof to contain the information concerning the case in question.

3. If any justice neglects to comply with the foregoing provisions of this section, according to the true intent and meaning thereof, the court, to whose officer any such information, examination, other evidence, or warrant of commitment ought to have been delivered, shall, upon examination and proof of the offence in a summary manner, impose such fine upon such justice as the court thinks fit. R.S., c. 146, s. 700. Penalty.  
for neglect.

**701.** Upon application for bail as aforesaid to any such court or judge the same order concerning the prisoner being bailed or continued in custody, shall be made as if the prisoner was brought up upon a *habeas corpus*. R.S., c. 146, s. 701. Order upon  
application  
for bail.

**702.** Whenever any justice or justices admit to bail any person who is then in any prison charged with the offence for which he is so admitted to bail, such justice or justices shall send to or cause to be lodged with the keeper of such prison, a warrant of deliverance under his or their hands requiring the said keeper to discharge the person so admitted to bail if he is detained for no other offence, and upon such warrant of deliverance being delivered to or lodged with such keeper, he shall forthwith obey the same. R.S., c. 146, s. 702; 1921, c. 25, s. 21. Warrant of  
deliverance.

**703.** Whenever a person charged with any offence has been bailed in manner aforesaid, it shall be lawful for any justice, if he sees fit, upon the application of the surety or of either of the sureties of such person and upon information being made in writing and on oath by such surety, or by some person on his behalf, that there is reason to believe that the person so bailed is about to abscond for the purpose of evading justice, to issue his warrant for the arrest of the person so bailed, and afterwards, upon being satisfied that the ends of justice would otherwise be defeated, to commit such person when so arrested to gaol until his trial or until he produces another sufficient surety or other sufficient sureties, as the case may be, in like manner as before. R.S., c. 146, s. 703. Warrant  
for the  
arrest of  
person  
bailed  
about to  
abscond.

Delivery of  
accused to  
keeper  
under  
warrant.

**704.** The constable or any of the constables, or other person to whom any warrant of commitment authorized by this or any other Act or law is directed, shall convey the accused person therein named or described to the gaol or other prison mentioned in such warrant, and there deliver him, together with the warrant, to the keeper of such gaol or prison, who shall thereupon give the constable or other person delivering the prisoner into his custody, a receipt for the prisoner, setting forth the state and condition of the prisoner when delivered into his custody.

Form.

2. Such receipt shall be in form 30. R.S., c. 146, s. 704.

## PART XV.

### SUMMARY CONVICTIONS.

#### *Interpretation.*

Definitions.

**705.** In this Part, unless the context otherwise requires,

"Clerk of  
the peace."

(a) "clerk of the peace" includes the proper officer of the court having jurisdiction in appeal under this Part;

"Common  
gaol."  
"Prison."

(b) "common gaol" or "prison" for the purpose of this Part means any place other than a penitentiary in which persons charged with offences are usually kept and detained in custody;

"District."  
"County."

(c) "district" or "county" includes any territorial or judicial division, or place in and for which there is such judge, justice, justice's court, officer or prison as is mentioned in the context;

"Territorial  
division."

(d) "territorial division" means, district, county, union of counties, township, city, town, parish or other judicial division or place;

"The  
court."

(e) "the court" in the sections of this Part relating to justices stating or signing cases means and includes any superior court of criminal jurisdiction for the province in which the proceedings in respect of which the case is sought to be stated are carried on. R.S., c. 146, s. 705.

#### *Application of Part.*

**706.** Subject to any special provision otherwise enacted with respect to such offence, act or matter, this Part shall apply to

To all  
cases of  
summary  
conviction.

(a) every case in which any person commits, or is suspected of having committed, any offence or act over which the Parliament of Canada has legislative authority, and for which such person is liable, on summary conviction, to imprisonment, fine, penalty or other punishment;

(b) every case in which a complaint is made to any justice in relation to any matter over which the Parliament of Canada has legislative authority, and with respect to which such justice has authority by law to make any order for the payment of money or otherwise. R.S., c. 146, s. 706.

To all cases where an order can be made summarily.

*Jurisdiction.*

**707.** Every complaint and information shall be heard, tried, determined and adjudged by one justice or two or more justices as directed by the Act or law upon which the complaint or information is framed or by any other Act or law in that behalf.

Hearing to be by one or more justices.

2. If there is no such direction in any Act or law then the complaint or information may be heard, tried, determined and adjudged by any one justice for the territorial division where the matter of the complaint or information arose: Provided that every one who aids, abets, counsels or procures the commission of any offence punishable on summary conviction, may be proceeded against and convicted either in the territorial division or place where the principal offender may be convicted, or in that in which the offence of aiding, abetting, counselling or procuring was committed. R.S., c. 146, s. 707.

May be by one justice unless special Act provides otherwise.

**708.** Any one justice may receive the information or complaint, and grant a summons or warrant thereon, and issue his summons or warrant to compel the attendance of any witnesses for either party, and do all other acts and matters necessary preliminary to the hearing, even if by the statute in that behalf it is provided that the information or complaint shall be heard and determined by two or more justices.

One justice may do all acts before hearing.

2. After a case has been heard and determined one justice may issue all warrants of distress or commitment thereon.

And after hearing.

3. It shall not be necessary for the justice who acts before or after the hearing to be the justice or one of the justices by whom the case is to be or has been heard and determined.

Need not be same justice.

4. If it is required by any Act or law that an information or complaint shall be heard and determined by two or more justices, or that a conviction or order shall be made by two or more justices, such justices shall be present and acting together during the whole of the hearing and determination of the case. R.S., c. 146, s. 708.

Justices must be present together when acting.

Title to  
lands  
coming  
into  
question.

**709.** No justice shall hear and determine any case of assault or battery, in which any question arises as to the title to any lands, tenements, hereditaments, or any interest therein or accruing therefrom, or as to any bankruptcy or insolvency, or any execution under the process of any court of justice. R.S., c. 146, s. 709.

*Information and Complaint.*

When  
complaint  
need not  
be in  
writing.

**710.** It shall not be necessary that any complaint upon which a justice may make an order for the payment of money or otherwise shall be in writing, unless it is so required by the particular Act or law upon which such complaint is founded.

Or under  
oath.

2. Every complaint upon which a justice is authorized by law to make an order, and every information for any offence or act punishable on summary conviction, may, unless it is by this Part or by some particular Act or law otherwise provided, be made or had without any oath or affirmation as to the truth thereof.

For one  
offence or  
matter.

3. Every complaint shall be for one matter of complaint only, and not for two or more matters of complaint, and every information shall be for one offence only, and not for two or more offences.

May be  
laid by  
agent.

4. Every complaint or information may be laid or made by the complainant or informant in person, or by his counsel or attorney or other person authorized in that behalf. R.S., c. 146, s. 710.

*Summons and Warrant.*

Compelling  
appearance.

**711.** The provisions of Parts XIII and XIV relating to compelling the appearance of the accused before the justice receiving an information for an indictable offence and the provisions respecting the attendance of witnesses on a preliminary inquiry and the taking of evidence thereon, shall, so far as the same are applicable, except as varied by the sections immediately following, apply to any hearing under the provisions of this Part: Provided that whenever a warrant is issued in the first instance against a person charged with an offence punishable under the provisions of this Part, the justice issuing it shall furnish a copy or copies thereof, and cause a copy to be served on the person arrested at the time of such arrest.

Proviso.  
Copy of  
warrant to  
be served.

Summons  
necessary,  
when.

2. Nothing herein contained shall oblige any justice to issue any summons to procure the attendance of a person charged with an offence by information laid before such justice whenever the application for any order may, by law, be made *ex parte*. R.S., c. 146, s. 711.

**712.** The provisions of section six hundred and sixty-two relating to the endorsement of warrants shall apply to the case of any warrant issued under the provisions of this Part against the accused, whether before or after conviction, and whether for the apprehension or imprisonment of any such person. R.S., c. 146, s. 712.

**713.** A summons may be issued to procure the attendance, on the hearing of any charge under the provisions of this Part of a witness who resides out of the jurisdiction of the justice before whom such charge is to be heard.

2. Every such summons and every warrant issued to procure the attendance of a witness, whether in consequence of refusal by such witness to appear in obedience to a summons or otherwise, may be respectively served and executed by the constable or other peace officer to whom the same is delivered or by any other person, as well beyond as within the territorial division of the justice who issued the same. R.S., c. 146, s. 713.

### *Trial.*

**714.** The room or place in which the justice sits to hear and try any complaint or information shall be deemed an open and public court, to which the public generally may have access so far as the same can conveniently contain them. R.S., c. 146, s. 714.

**715.** The person against whom the complaint is made or information laid shall be admitted to make his full answer and defence thereto, and to have the witnesses examined and cross-examined by counsel, solicitor or agent on his behalf.

2. Every complainant or informant in any such case shall be at liberty to conduct the complaint or information, and to have the witnesses examined and cross-examined, by counsel or attorney on his behalf. R.S., c. 146, s. 715.

**716.** Every witness at any hearing shall be examined upon oath or affirmation, by the justice before whom such witness appears for the purpose of being examined.

2. A judge of any superior or county court may appoint a commissioner or commissioners to take the evidence upon oath of any person who resides out of Canada and is stated to be able to give material information relating to an offence for which a prosecution is pending under this Part, or relating to any person accused of such offence, in the circumstances and in the manner, *mutatis mutandis*, in which he might do so under section nine hundred and

**Proviso.** ninety-seven; and all the provisions of the said section, in respect of matters arising thereunder, shall apply *mutatis mutandis* to matters arising under this section: Provided that no such appointment shall be made without the consent of the Attorney General. R.S., c. 146, s. 716.

**Proof of exception, etc., by defendant.**

**717.** Any exception, exemption, proviso, excuse or qualification, whether it does or does not accompany in the same section the description of the offence in the Act, order, by-law, regulation or other document creating the offence, may be proved by the defendant, but need not be specified or negatived in the information or complaint, and whether it is or is not so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant or complainant. 1909, c. 9, s. 2.

**Prosecutor need not prove negative.**

**Non-appearance of accused.**

**718.** In case the accused does not appear at the time and place appointed by any summons issued by a justice on information before him of the commission of an offence punishable on summary conviction then, if it appears to the satisfaction of the justice that the summons was duly served a reasonable time before the time appointed for appearance, such justice may proceed *ex parte* to hear and determine the case in the absence of the defendant, as fully and effectually, to all intents and purposes, as if the defendant had personally appeared in obedience to such summons, or the justice may, if he thinks fit, issue his warrant as provided by sections six hundred and fifty-nine and six hundred and sixty and adjourn the hearing of the complaint or information until the defendant is apprehended. R.S., c. 146, s. 718.

**Ex parte hearing.**

**Warrant to procure attendance of accused.**

**Non-appearance of prosecutor.**

**719.** If, upon the day and at the place so appointed the defendant appears voluntarily in obedience to the summons in that behalf served upon him, or is brought before the justice by virtue of a warrant, then, if the complainant or informant, having had due notice, does not appear by himself, his counsel, solicitor or agent, the justice shall dismiss the complaint or information unless he thinks proper to adjourn the hearing of the same until some other day upon such terms as he thinks fit. R.S., c. 146, s. 719.

**Dismissal or adjournment.**

**Proceedings when both parties appear.**

**720.** If both parties appear, either personally or by their respective counsel, solicitors, or agents, before the justice who is to hear and determine the complaint or information such justice shall proceed to hear and determine the same.

2. When the defendant is a corporation the summons may be served on the mayor or chief officer of such corporation, or upon the clerk or secretary or the like officer thereof, and may be in the same form as if the defendant were a natural person. Service of summons upon corporation.

3. The corporation in such case shall appear by attorney, and if it does not appear the justice may proceed as in other cases. Appearance by corporation. R.S., c. 146, s. 720; 1909, c. 9, s. 2.

**721.** If the defendant is personally present at the hearing the substance of the information or complaint shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted, or why an order should not be made against him, as the case may be. Arraignment of accused.

2. If the defendant thereupon admits the truth of the information or complaint, and shows no sufficient cause why he should not be convicted, or why an order should not be made against him, as the case may be, the justice present at the hearing shall convict him or make an order against him accordingly. Conviction or order if charge admitted.

3. If the defendant does not admit the truth of the information or complaint, the justice shall proceed to inquire into the charge and for the purposes of such inquiry shall take the evidence of witnesses both for the complainant and accused in the manner provided by Part XIV in the case of a preliminary inquiry. If charge not admitted.

4. The prosecutor or complainant is not entitled to give evidence in reply if the defendant has not adduced any evidence other than as to his general character. Evidence in reply.

5. In a hearing under this Part the witnesses need not sign their depositions. R.S., c. 146, s. 721. Witness need not sign.

**722.** Before or during the hearing of any information or complaint the justice may, in his discretion, adjourn the hearing of the same to a certain time or place to be then appointed and stated in the presence and hearing of the party or parties, or of their respective counsel, solicitors or agents then present, but no such adjournment shall be for more than eight days. Adjournment.

2. If, at the time and place to which the hearing or further hearing is adjourned, either or both of the parties do not appear, personally or by his or their counsel, solicitors or agents respectively, before the justice or such other justices as shall then be there, the justice who is then there may proceed to the hearing or further hearing as if the party or parties were present. Hearing at time to which adjourned.

3. If the prosecutor or complainant does not appear the justice may dismiss the information, with or without costs as to him seems fit. Prosecutor not appearing.

Defendant  
may go at  
large, be  
committed,  
or put  
under  
recogniz-  
ance.

4. Whenever any justice adjourns the hearing of any case he may suffer the defendant to go at large or may commit him to the common gaol or other prison within the territorial division for which such justice is then acting, or to such other safe custody as such justice thinks fit, or may discharge the defendant upon his recognizance, with or without sureties at the discretion of such justice, conditioned for his appearance at the time and place to which such hearing or further hearing is adjourned.

In event of  
non-  
appearance  
warrant  
may issue.

5. Whenever any defendant who is discharged upon recognizance, or allowed to go at large, does not appear at the time mentioned in the recognizance or to which the hearing or further hearing is adjourned the justice may issue his warrant for his apprehension. R.S., c. 146, s. 722.

### *Defects and Objections.*

Proceedings  
not  
objection-  
able on  
certain  
grounds.

**723.** No information, complaint, warrant, conviction or other proceeding under this Part shall be deemed objectionable or insufficient on the ground

- (a) that it does not contain the name of the person injured, or intended or attempted to be injured; or
- (b) that it does not state who is the owner of any property therein mentioned; or
- (c) that it does not specify the means by which the offence was committed; or
- (d) that it does not name or describe with precision any person or thing.

Particulars  
may be  
ordered.

2. The justice may, if satisfied that it is necessary for a fair trial, order that a particular, further describing such means, person, place or thing, be furnished by the prosecutor.

Description  
of offence  
in words  
of Act.

3. The description of any offence in the words of the Act or any order, by-law, regulation or other document creating the offence, or any similar words, shall be sufficient in law. R.S., c. 146, s. 723.

Variance  
or defect.

**724.** No objection shall be allowed to any information, complaint, summons or warrant for any alleged defect therein, in substance or in form, or for any variance between such information, complaint, summons or warrant and the evidence adduced on the part of the informant or complainant at the hearing of such information or complaint.

Not  
material,  
as to  
time when.

2. Any variance between the information for any offence or act punishable on summary conviction and the evidence adduced in support thereof as to the time at which such offence or act is alleged to have been committed, shall not be deemed material if it is proved that such information was, in fact, laid within the time limited by law for laying the same.



3. Any variance between the information and the evidence adduced in support thereof, as to the place in which the offence or act is alleged to have been committed, shall not be deemed material if the offence or act is proved to have been committed within the jurisdiction of the justice by whom the information is heard and determined. Not material, as to place where.

4. If any such variance, or any other variance between the information, complaint, summons or warrant, and the evidence adduced in support thereof, appears to the justice present and acting at the hearing to be such that the defendant has been thereby deceived or misled, the justice may, upon such terms as he thinks fit, adjourn the hearing of the case to some future day. R.S., c. 146, s. 724. If misleading, adjournment.

**725.** No information, summons, conviction, order or other proceeding shall be held to charge two offences, or shall be held to be uncertain on account of its stating the offence to have been committed in different modes, or in respect of one or other of several articles, either conjunctively or disjunctively, for example, in charging an offence under section five hundred and thirty-three it may be alleged that 'the defendant unlawfully did cut, break, root up and otherwise destroy or damage a tree, sapling or shrub'; and it shall not be necessary to define more particularly the nature of the act done, or to state whether such act was done in respect of a tree, or a sapling, or a shrub. R.S., c. 146, s. 725. Proceedings not objectionable on certain other grounds.

### *Adjudication.*

**726.** The justice, having heard what each party has to say, and the witnesses and evidence adduced, shall consider the whole matter, and, unless otherwise provided, determine the same and convict or make an order against the defendant, or dismiss the information or complaint, as the case may be. R.S., c. 146, s. 726. Convict, make order, or dismiss.

**727.** If the justice convicts or makes an order against the defendant, a minute or memorandum thereof may then be made, for which no fee shall be paid, and the conviction or order, in such case, shall afterwards be drawn up by the justice on parchment or on paper, under his hand, in such one of the forms of conviction or of orders from 31 to 36 inclusive as is applicable to the case, or to the like effect. R.S., c. 146, s. 727; 1921, c. 25, s. 21. Memo. of conviction or order. Forms.

**728.** When several persons join in the commission of the same offence, and upon conviction thereof each is adjudged to pay a penalty which includes the value of the property or the amount of the injury done, no further sum shall

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shall

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shall be paid to the person aggrieved than such amount or value and costs, if any, and the residue of the penalties imposed shall be applied in the same manner as other penalties imposed by a justice are directed to be applied. R.S., c. 146, s. 728.

First  
conviction  
in certain  
cases.

**729.** Whenever any person is summarily convicted before a justice of any offence against Part VI, or Part VII, except sections two hundred and eighty-five, subsection one as regards motor vehicles or automobiles, and subsections two, three and four; three hundred and seven; four hundred and six, subsection two; four hundred and seven, subsections two and three; four hundred and nine; four hundred and twelve, subsections two and three; four hundred and thirty-eight; and sections four hundred and sixty-six to five hundred and eight inclusive; or against Part VIII, except sections five hundred and forty-two to five hundred and forty-five inclusive, and it is a first conviction, the justice may, if he thinks fit, discharge the offender from his conviction upon his making such satisfaction to the person aggrieved, for damages and costs, or either of them, as are ascertained by the justice. R.S., c. 146, s. 729.

Discharge  
on pay-  
ment of  
damages  
and costs.

Order of  
dismissal.

**730.** If the justice dismisses the information or complaint, he may, when required so to do, make an order of dismissal in form 37, and he shall give the defendant a certificate in form 38 which, upon being afterwards produced, shall without further proof, be a bar to any subsequent information or complaint for the same matter, against the same defendant. R.S., c. 146, s. 730.

Certificate  
of dismissal.  
Form.

Minute of  
order to be  
served.

**731.** Whenever, by any Act or law, authority is given to commit a person to prison, or to levy any sum upon his goods or chattels by distress, for not obeying an order of a justice, the defendant shall be served with a copy of the minute of the order before any warrant of commitment or of distress is issued in that behalf.

No part of  
warrant.

2. The order or minute shall not form any part of the warrant of commitment or of distress. R.S., c. 146, s. 731.

Assault.

**732.** Whenever any person is charged with common assault any justice may summarily hear and determine the charge.

Duty when  
more than  
common  
assault.

2. If the justice finds the assault complained of to have been accompanied by an attempt to commit some other indictable offence, or is of opinion that the same is, from any other circumstance, a fit subject for prosecution by indictment, he shall abstain from any adjudication thereupon, and shall deal with the case in all respects in the same manner as if he had no authority finally to hear and determine the same. R.S., c. 146, s. 732.

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**733.**

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**733.** If the justice, upon the hearing of any case of assault or battery upon the merits where the information is laid by or on behalf of the person aggrieved, under the last preceding section, deems the offence not to be proved, or finds the assault or battery to have been justified, or so trifling as not to merit any punishment, he shall dismiss the complaint and shall forthwith make out a certificate under his hand stating the fact of such dismissal, and shall deliver such certificate to the person against whom the complaint was preferred. R.S., c. 146, s. 733. Dismissal of complaint for assault.

**734.** If the person against whom any such information has been laid, by or on behalf of the person aggrieved, obtains such certificate, or, having been convicted, pays the whole amount adjudged to be paid or suffers the imprisonment, or imprisonment with hard labour, awarded, he shall be released from all further or other proceedings, civil or criminal, for the same cause. R.S., c. 146, s. 734. Release from further proceedings.

**735.** In every case of a summary conviction, or of an order made by a justice, such justice may, in his discretion, award and order in and by the conviction or order that the defendant shall pay to the prosecutor or complainant such costs as to the said justice seem reasonable in that behalf, and not inconsistent with the fees established by law to be taken on proceedings had by and before justices. R.S., c. 146, s. 735. Costs on conviction or order.

**736.** Whenever the justice, instead of convicting or making an order, dismisses the information or complaint, he may, in his discretion, in and by his order of dismissal, award and order that the prosecutor or complainant shall pay to the defendant such costs as to the said justice seem reasonable and consistent with law. R.S., c. 146, s. 736. Costs on dismissal.

**737.** The sums so allowed for costs shall, in all cases, be specified in the conviction or order, or order of dismissal, and the same shall be recoverable in the same manner and under the same warrants as any penalty, adjudged to be paid by the conviction or order, is to be recovered. R.S., c. 146, s. 737. Recovery of costs with penalty.

**738.** Whenever there is no such penalty to be recovered such costs shall be recoverable by distress and sale of the goods and chattels of the party, and in default of distress, by imprisonment, with or without hard labour, for any term not exceeding one month. R.S., c. 146, s. 738. Recovery of costs only.

Conviction  
or order  
involving  
payment  
of money.

Justice may  
adjudge.

Distress  
and  
imprison-  
ment in  
default.

Imprison-  
ment in  
the first  
instance in  
default.

Hard  
labour.

Imprison-  
ment  
when  
ordered  
in addition  
to fine.

**739.** Whenever a conviction adjudges a pecuniary penalty or compensation to be paid, or an order requires the payment of a sum of money, whether the Act or law authorizing such conviction or order does or does not provide a mode of raising or levying the penalty, compensation or sum of money, or of enforcing the payment thereof, the justice by his conviction, or order after adjudging payment of such penalty, compensation or sum of money, with or without costs, may order and adjudge

(a) that in default of payment thereof forthwith, or within a limited time, such penalty, compensation or sum of money and costs, if the conviction or order is made with costs, shall be levied by distress and sale of the goods and chattels of the defendant, and, if sufficient distress cannot be found, that the defendant be imprisoned in the manner and for the time directed by the Act or law authorizing such conviction or order or by this Act, or for any period not exceeding three months, if the Act or law authorizing the conviction or order does not specify imprisonment, or does not specify any term of imprisonment, unless such penalty, compensation or sum of money and costs, if the conviction or order is made with costs, and the costs and charges of the distress and of the commitment and of the conveying of the defendant to gaol are sooner paid; or

(b) that in default of payment of the said penalty, compensation or sum of money, and costs, if any, forthwith or within a limited time, the defendant be imprisoned in the manner and for the time mentioned in the said Act or law, or for any period not exceeding three months, if the Act or law authorizing the conviction or order does not specify imprisonment, or does not specify any term of imprisonment, unless the same and the costs and charges of the commitment and of the conveying of the defendant to jail are sooner paid.

2. Whenever under such Act or law, imprisonment with hard labour may be ordered or adjudged in the first instance as part of the punishment for the offence of the defendant, the imprisonment in default of distress or of payment may be with hard labour. R.S., c. 146, s. 739; 1909, c. 9, s. 2.

**740.** Where, by virtue of an Act or law so authorizing, the justice by his conviction adjudges against the defendant payment of a penalty or compensation, and also imprisonment, as punishment for an offence, he may, if he thinks fit, order that the imprisonment in default of distress or of payment, shall commence at the expiration of the imprisonment awarded as a punishment for the offence.

2. The like proceeding may be had upon any conviction or order made in accordance with this or the last preceding section as if the Act or law authorizing the conviction or order had expressly provided for a conviction or order in the terms permitted by this or the last preceding section. R.S., c. 146, s. 740.

This and last section construed as if in special Act.

### *Enforcing Adjudication.*

**741.** The justice making the conviction or order mentioned in paragraph (a) of section seven hundred and thirty-nine may issue a warrant of distress in form 39 or 40, as the case requires, and in the case of a conviction or order under paragraph (b) of the said section, a warrant in one of the forms 41 or 42 may issue.

Distress warrant.

2. If a warrant of distress is issued and the constable or peace officer charged with the execution thereof returns, form 43, that he can find no goods or chattels whereon to levy thereunder, the justice may issue a warrant of commitment in form 44. R.S., c. 146, s. 741.

Warrant of commitment.

**742.** When any information or complaint is dismissed with costs the justice may issue a warrant of distress on the goods and chattels of the prosecutor or complainant, in form 45, for the amount of such costs; and, in default of distress, a warrant of commitment in form 46 may issue.

Distress and commitment for costs.

2. The term of imprisonment in such case shall not exceed one month. R.S., c. 146, s. 742.

Term.

**743.** If, after delivery of any warrant of distress issued under this Part to the constable or constables to whom the same has been directed to be executed, sufficient distress cannot be found within the limits of the jurisdiction of the justice granting the warrant, then upon proof being made upon oath or affirmation of the handwriting of the justice granting the warrant, before any justice of any other territorial division, such justice shall thereupon make an endorsement on the warrant, signed with his hand, authorizing the execution of the warrant within the limits of his jurisdiction, by virtue of which warrant and endorsement the penalty or sum and costs, or so much thereof as has not been before levied or paid, shall be levied by the person bringing the warrant, or by the person or persons to whom the warrant was originally directed, or by any constable or other peace officer of the last mentioned territorial division, by distress and sale of the goods and chattels of the defendant therein.

Endorsement of warrant for distress.

2. Such endorsement shall be in form 47. R.S., c. 146, Form. s. 743.

When  
distress  
would be  
ruinous to  
defendant  
or family.

**744.** Whenever it appears to any justice that the issuing of a distress warrant would be ruinous to the defendant and his family, or whenever it appears to the justice, by the confession of the defendant or otherwise, that he has no goods and chattels whereon to levy such distress, then the justice, if he deems fit, instead of issuing a warrant of distress, may commit the defendant to the common gaol or other prison in the territorial division, there to be imprisoned, with or without hard labour, for the time and in the manner he would have been committed in case such warrant of distress had issued and no sufficient distress had been found. R.S., c. 146, s. 744.

Proceedings  
pending  
execution  
of distress  
warrant.

**745.** Whenever a justice issues a warrant of distress as hereinbefore provided, he may suffer the defendant to go at large, or verbally, or by a written warrant in that behalf, may order the defendant to be kept and detained in safe custody, until return has been made to the warrant of distress, unless the defendant gives sufficient security, by recognizance or otherwise, to the satisfaction of the justice, for his appearance, at the time and place appointed for the return of the warrant of distress, before him or before such other justice for the same territorial division as shall then be there. R.S., c. 146, s. 745.

Commit-  
ment when  
party in  
prison.

**746.** Whenever a justice, upon any information or complaint, adjudges the defendant to be imprisoned, and the defendant is then in prison undergoing imprisonment upon conviction for any other offence, the warrant of commitment for the subsequent offence shall be forthwith delivered to the gaoler or other officer to whom it is directed.

Cumulative  
punish-  
ment.

2. The justice who issued the same, if he thinks fit, may award and order therein that the imprisonment for the subsequent offence shall commence at the expiration of the imprisonment to which the defendant was previously sentenced. R.S., c. 146, s. 746.

Tender or  
payment in  
distress  
warrant.

**747.** Whenever a warrant of distress has issued against any person, and such person pays or tenders to the peace officer having the execution of the same, the sum or sums in the warrant mentioned, together with the amount of the costs and charges of the distress up to the time of payment or tender, the peace officer shall cease to execute the same.

Payment  
when party  
in prison  
to keeper.

2. Whenever any person is imprisoned for non-payment of any penalty or other sum, he may pay or cause to be paid to the keeper of the prison in which he is imprisoned, the sum in the warrant of commitment mentioned, together with the amount of the costs and charges therein

also mentioned, and the keeper shall receive the same, and shall thereupon discharge the person, unless he is in his custody for some other matter.

3. Such keeper shall forthwith pay over any moneys so received by him to the justice who issued the warrant. By him to justice.  
R.S., c. 146, s. 747.

*Sureties to Keep the Peace.*

**748.** Whenever any person is charged before a justice with any offence triable under this Part which, in the opinion of such justice, is directly against the peace, and the justice after hearing the case is satisfied of the guilt of the accused, and that the offence was committed under circumstances which render it probable that the person convicted will be again guilty of the same or some other offence against the peace unless he is bound over to good behaviour, such justice may, in addition to, or in lieu of, any other sentence which may be imposed upon the accused, require him forthwith to enter into his own recognizance, or to give security to keep the peace and be of good behaviour for any term not exceeding twelve months. Recognizance to keep the peace.

2. Upon complaint by or on behalf of any person that on account of threats made by some other person or on any other account, he, the complainant, is afraid that such other person will do him, his wife or child some personal injury, or will burn or set fire to his property, the justice before whom such complaint is made, may, if he is satisfied that the complainant has reasonable grounds for his fears, require such other person to enter into his own recognizance, or to give security, to keep the peace, and to be of good behaviour, for a term not exceeding twelve months. In case of complaint if threats made.

3. The provisions of this Part shall apply, so far as the same are applicable, to proceedings under this section, and the complainant and defendant and witnesses may be called and examined, and cross-examined, and the complainant and defendant shall be subject to costs as in the case of any other complaint. Procedure.

4. If any person so required to enter into his own recognizance or give security as aforesaid, refuses or neglects so to do, the same or any other justice may order him to be imprisoned for any term not exceeding twelve months. Imprisonment in default of sureties.

5. The forms 48, 48A, 49 and 50, with such variations and additions as the circumstances may require, may be used in proceedings under this section. Forms. R.S., c. 146, s. 748.

*Appeal.*

**749.** Unless it is otherwise provided in any Act under which a conviction takes place or an order is made by a justice for the payment of money or dismissing an Unless otherwise provided in special Act.  
information

information or complaint, any person who thinks himself aggrieved by any such conviction or order or dismissal, the prosecutor or complainant, as well as the defendant, may appeal,

- Ontario. (a) in the province of Ontario, when the conviction adjudges imprisonment only, to the Court of General Sessions of the Peace; and in all other cases to the Division Court of the division of the county in which the cause of the information or complaint arose;
- Quebec. (b) in the province of Quebec, to the Court of King's Bench, Crown side;
- Nova Scotia, New Brunswick, and Manitoba. (c) in the provinces of Nova Scotia, New Brunswick and Manitoba, to the county court of the district or county where the cause of the information or complaint arose;
- British Columbia. (d) in the province of British Columbia, to the county court, at the sitting thereof which shall be held nearest to the place where the cause of the information or complaint arose;
- P.E. Island. (e) in the province of Prince Edward Island, to the Supreme Court;
- Saskatchewan and Alberta. (f) in the province of Saskatchewan or the province of Alberta, to the District Court of the district in which the cause of the information or complaint arose, at the judicial centre of the district or sub-judicial district or at the sittings thereof which shall be held nearest to the place where the cause of the information or complaint arose: Provided that the district Court Judge of such judicial district shall have power to appoint the place for the hearing of such appeal on the application of any party to it;
- Northwest. (g) in the Northwest Territories, to a stipendiary magistrate; and
- Yukon. (h) in the Yukon Territory, to a judge of the Territorial Court.
- Saskatchewan, Alberta, Northwest and Yukon, no jury. 2. In the case of the provinces of Saskatchewan and Alberta, and of the Northwest Territories and the Yukon Territory, the judge or stipendiary magistrate hearing any such appeal shall sit without a jury at the place where the cause of the information or complaint arose, or at the nearest place thereto where a court is appointed to be held. R.S., c. 146, s. 749; 1908, c. 18, s. 9; 1920, c. 43, s. 11.

Procedure on appeals.

**750.** Unless it is otherwise provided in the special Act,  
 (a) if a conviction or order is made more than fourteen days before a sittings of the court to which an appeal is given, such appeal shall be made to that sittings; but if the conviction or order is made within fourteen



days of a sittings the appeal shall be made to the second sittings next after such conviction or order: Provided that in the province of Nova Scotia the appeal shall be to a sittings of the court in the county where the cause of the information or complaint arose; in the one case to the sittings next after and in the other to the second sittings after the conviction or order;

(b) the appellant shall give notice of his intention to appeal by filing in the office of the clerk of the court appealed to a notice in writing setting forth with reasonable certainty the conviction or order appealed against and the notice shall be served upon the respondent and the justice who tried the case, or, in the alternative, upon such person or persons as a judge of the court appealed to shall direct, and such service and filing shall be within ten days of the making of the conviction or order complained of, or within such further time, not exceeding an additional twenty days, as a judge of the court appealed to may see fit to fix either before or after the expiration of the said ten days;

(c) the appellant, if the appeal is from a conviction or order adjudging imprisonment, shall either remain in custody until the holding of the court to which the appeal is given, or shall within the time limited for filing a notice of intention to appeal, enter into a recognizance in form 51 with two sufficient sureties before a county judge, clerk of the peace or justice for the county in which such conviction or order has been made, conditioned personally to appear at the said court and try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as are awarded by the court; or if the appeal is from a conviction or order whereby a penalty or sum of money is adjudged to be paid, the appellant shall within the time limited for filing the notice of intention to appeal, in cases in which imprisonment upon default of payment is directed either remain in custody until the holding of the court to which the appeal is given, or enter into a recognizance in form 51 with two sufficient sureties as hereinbefore set out, or deposit with the justice making the conviction or order an amount sufficient to cover the sum so adjudged to be paid, together with such further amount as such justice deems sufficient to cover the costs of the appeal; and, in cases in which imprisonment in default of payment is not directed, deposit with such justice an amount sufficient to cover the sum so adjudged to be paid, together with such further amount as such justice deems sufficient to cover the costs of the appeal; and upon such recognizance being entered

In Nova  
Scotia.

Notice of  
appeal.

Applicant  
remains in  
custody  
or gives  
recogniz-  
ance or  
makes  
deposit in  
court.

into or deposit made the justice before whom such recognizance is entered into or deposit made shall liberate such person if in custody;

Recognizance to value of property, on appeal under s. 637.

(d) in case of an appeal from the order of a justice pursuant to section six hundred and thirty-seven for the restoration of gold or gold-bearing quartz, or silver or silver ore, the appellant shall give security by recognizance to the value of the said property to prosecute his appeal at the proper sittings of the court, and to pay such costs as are awarded against him;

The court may permit new recognizances in place of insufficient, defective or invalid recognizances.

(e) where any recognizance shall have been entered into, within the prescribed time, and shall appear to the court before which the appeal or stated case in respect of which the recognizance is given is brought, to have been insufficiently entered into or to be otherwise defective or invalid, it shall be lawful for such court if it shall so think fit to permit the substitution of a new and sufficient recognizance to be entered into before such court in place of such insufficient, defective or invalid recognizance, and for that purpose to allow such time and make such examination and impose such terms as to payment of costs as to such court shall appear just and reasonable; and such substituted recognizance shall be as valid and effectual to all intents and purposes as if the same had been duly entered into within the prescribed time;

(f) the service of any notice under this section may be proven by the affidavit of the officer or person serving the same. 1909, c. 9, s. 2; 1920, c. 43, s. 12; 1925, c. 38, ss. 19 and 20.

Hearing of appeal.

**751.** The court to which such appeal is made shall thereupon hear and determine the matter of appeal and make such order therein, with or without costs to either party, including costs of the court below, as seems meet to the court, and, in case of the dismissal of an appeal by the defendant and the affirmance of the conviction or order, shall order and adjudge the appellant to be punished according to the conviction or to pay the amount adjudged by the order, and to pay such costs as are awarded, and shall, if necessary, issue process for enforcing the judgment of the court.

Payment of judgment and costs out of deposit.

2. In any case where a deposit has been made as provided in paragraph (c) of section seven hundred and fifty if the conviction or order is affirmed, the court may order that the sum thereby adjudged to be paid, together with the costs of the conviction or order, and the costs of the appeal, shall be paid out of the money deposited, and that

the residue, if any, shall be paid to the appellant; and if the conviction or order is quashed the court shall order the money to be repaid to the appellant.

3. The court to which such appeal is made shall have <sup>Adjourning</sup> power, if necessary, from time to time, by order endorsed on the conviction or order, to adjourn the hearing of the appeal from one sittings to another, or others, of the said court.

4. Whenever any conviction or order is quashed on appeal, the clerk of the peace or other proper officer shall <sup>Memo. of</sup> forthwith endorse on the conviction or order a memorandum that the same has been quashed.

5. Whenever any copy or certificate of such conviction or order is made, a copy of such memorandum shall be <sup>Evidence</sup> added thereto, and shall, when certified under the hand of the clerk of the peace, or of the proper officer having the custody of the same, be sufficient evidence, in all courts and for all purposes, that the conviction or order has been quashed. R.S., c. 146, s. 751; 1909, c. 9, s. 2.

**752.** When an appeal against any summary conviction or order has been lodged in due form, and in compliance <sup>Judgment</sup> with the requirements of this Part, the court appealed to shall try, and shall be the absolute judge, as well of the facts as of the law, in respect to such conviction or order.

2. Any of the parties to the appeal may call witnesses <sup>Either</sup> and adduce evidence whether such witnesses were called <sup>party may</sup> or evidence adduced at the hearing before the justice or <sup>call</sup> witnesses. not, either as to the credibility of any witness, or as to any other fact material to the inquiry.

3. Any evidence taken before the justice at the hearing <sup>Using</sup> below, certified by the justice, may be read on such appeal, <sup>evidence</sup> and shall have the like force and effect as if the witness <sup>taken below.</sup> was there examined if the court appealed to is satisfied by affidavit or otherwise that the personal presence of the witness cannot be obtained by any reasonable efforts. R.S., c. 146, s. 752.

**753.** No judgment shall be given in favour of the appellant if the appeal is based on an objection to any information, complaint or summons, or to any warrant to apprehend a defendant issued upon any such information, complaint or summons, for any alleged defect therein in substance or in form, or for any variance between such information, complaint, summons or warrant and the evidence adduced in support thereof at the hearing of such information or complaint, unless it is proved before the court hearing the appeal that such objection was made before the justice before whom the case was tried, and by whom such conviction, judgment or decision was given, <sup>Appeals on</sup> <sup>matters of</sup> <sup>form.</sup> <sup>Objection</sup> <sup>must have</sup> <sup>taken</sup> <sup>below.</sup>

909

nor

R.S., 1927.

nor unless it is proved that notwithstanding it was shown to such justice that by such variance the person summoned and appearing or apprehended had been deceived or misled, such justice refused to adjourn the hearing of the case to some further day, as in this Part provided. R.S., c. 146, s. 753.

Judgment  
to be upon  
the merits.

**754.** In every case of appeal from any summary conviction or order had or made before any justice, the court to which such appeal is made shall, notwithstanding any defect in such conviction or order, and notwithstanding that the punishment imposed or the order made may be in excess of that which might lawfully have been imposed or made, hear and determine the charge or complaint on which such conviction or order has been had or made, upon the merits, and may confirm, reverse or modify the decision of such justice, or may make such other conviction or order in the matter as the court thinks just, and may by such order exercise any power which the justice whose decision is appealed from might have exercised, and may make such order as to costs to be paid by either party as it thinks fit.

May  
confirm,  
reverse or  
modify.

Enforcing  
conviction.

2. Such conviction or order shall have the same effect and may be enforced in the same manner as if it had been made by such justice.

By process  
of court.

3. Any conviction or order made by the court on appeal may also be enforced by process of the court itself. R.S., c. 146, s. 754.

Costs when  
appeal not  
prosecuted.

**755.** The court to which an appeal is made, upon proof of notice of the appeal to such court having been given to the person entitled to receive the same, whether such notice has been properly given or not, and though such appeal has not been afterwards prosecuted or entered, may, if such appeal has not been abandoned according to law, at the same sittings for which such notice was given, order to the party or parties receiving the same such costs and charges as are thought reasonable and just by the court, to be paid by the party or parties giving such notice.

How  
recoverable.

2. Such costs shall be recoverable in the manner provided by this Act for the recovery of costs upon an appeal against an order or conviction. R.S., c. 146, s. 755.

Proceedings  
when  
appeal  
fails.

**756.** If an appeal against a conviction or order is decided in favour of the respondents, the justice who made the conviction or order, or any other justice for the same territorial division, may issue the warrant of distress or commitment for execution of the same, as if no appeal had been brought. R.S., c. 146, s. 756.

**757.** Every justice before whom any person is summarily tried, shall transmit the conviction or order to the court to which the appeal is by this Part given, in and for the district, county or place wherein the offence is alleged to have been committed, before the time when an appeal from such conviction or order may be heard, there to be kept by the proper officer among the records of the court. Conviction to be transmitted to appeal court.

2. The conviction or order shall be presumed not to have been appealed against, until the contrary is shown. Presumption.

3. Upon any indictment or information against any person for a subsequent offence, a copy of such conviction, certified by the proper officer of the court, or proved to be a true copy, shall be sufficient evidence to prove a conviction for the former offence. Evidence of conviction.

4. In any case when a conviction or order is required by this Part after appeal to be enforced by any justice the clerk of the court to which the appeal was had or other proper officer shall remit such conviction or order and all papers therewith sent to the court of appeal excepting any notice of intention to appeal and recognizance to such justice to be by him proceeded upon as in such case directed by this Part. R.S., c. 146, s. 757. Clerk of court to remit papers in certain cases.

**758.** If upon any appeal the court trying the appeal orders either party to pay costs, the order shall direct the costs to be paid to the clerk of the peace or other proper officer of the court, to be paid over by him to the person entitled to the same, and shall state within what time the costs shall be paid. R.S., c. 146, s. 758. Order as to costs.

**759.** If such costs are not paid within the time limited, and the person ordered to pay the same has not been bound by any recognizance conditioned to pay such costs, the clerk of the peace or his deputy, on application of the person entitled to the costs, or of any person on his behalf, and on payment of any fee to which he is entitled, shall grant to the person so applying, a certificate that the costs have not been paid. SO Recovery of costs. Certificate.

2. Upon production of the certificate to any justice in and for the same territorial division, such justice may enforce the payment of the costs by warrant of distress, and in default of distress may by warrant commit the person against whom the warrant of distress has issued, for any term not exceeding one month, unless the amount of the costs and all costs and charges of the distress and also the costs of the commitment and of the conveying of the party to prison, if the justice thinks fit so to order, are sooner paid. Distress commitment.

Form.

3. The said certificate shall be in form 52 and the warrants of distress and commitment in forms 53 and 54 respectively. R.S., c. 146, s. 759.

Abandonment of appeal.

**760.** An appellant may abandon his appeal by giving to the opposite party notice in writing of his intention six clear days before the sitting of the court appealed to, and thereupon the costs of the appeal shall be added to the sum, if any, adjudged against the appellant by the conviction or order, and the justice shall proceed on the conviction or order as if there had been no appeal. R.S., c. 146, s. 760.

*Stating a Case.*

Statement of case by justices for review.

**761.** Any person aggrieved, the prosecutor or complainant as well as the defendant, who desires to question a conviction, order, determination or other proceeding of a justice under this Part, on the ground that it is erroneous in point of law, or is in excess of jurisdiction, may apply to such justice to state and sign a case setting forth the facts of the case and the grounds on which the proceeding is questioned, and if the justice declines to state the case, may apply to the court for an order requiring the case to be stated.

Time for application and stated case when rules made.

2. The application shall be made and the case stated within such time and in such manner as is from time to time directed by rules or orders made under section five hundred and seventy-six of this Act.

When no rules.

3. If there be no rule or order otherwise providing,
- (a) the application shall be made in writing to the justice and a copy thereof left with him, and may be made at any time within seven clear days from the date of the proceeding to be questioned;
  - (b) the case shall be stated within three calendar months after the date of the application, and after the recognizance hereinafter referred to has been entered into; and
  - (c) the applicant shall within three days after receiving the case transmit it to the court, first giving notice in writing of such appeal, with a copy of the case as signed and stated, to the other party to the proceeding which is questioned. R.S., c. 146, s. 761; 1909, c. 9, s. 2.

Recognizance by applicant for a case.

**762.** The appellant at the time of making such application, and before a case is stated and delivered to him by the justice, shall, in every instance, enter into a recognizance before such justice or some other justice exercising the same jurisdiction, with or without surety or sureties, and in such sum as to the justice seems meet, conditioned

to prosecute his appeal without delay, and to submit to the judgment of the court and pay such costs as are awarded by the same; and the appellant shall, at the same time, and before he shall be entitled to have the case delivered to him, pay to the justice such fees as he is entitled to.

2. The appellant, if then in custody, shall be liberated upon the recognizance being further conditioned for his appearance before the same justice, or such other justice as is then sitting, within ten days after the judgment of the court has been given, to abide such judgment, unless the judgment appealed against is reversed.

3. Where any recognizance shall have been entered into within the prescribed time, and shall appear to the court before which the appeal or stated case in respect of which the recognizance is given is brought, to have been insufficiently entered into or to be otherwise defective or invalid, it shall be lawful for such court if it shall so think fit to permit the substitution of a new and sufficient recognizance to be entered into before such court in place of such insufficient, defective or invalid recognizance, and for that purpose to allow such time and make such examination and impose such terms as to payment of costs as to such court shall appear just and reasonable; and such substituted recognizance shall be as valid and effectual to all intents and purposes as if the same had been duly entered into within the prescribed time.

4. Where, pending an application for a stated case, the justice dies or quits office the applicant may, on notice to the other party or parties, apply to the court to state a case itself, and if a case is thereupon stated it may be dealt with as if it had been duly stated by the said justice.

5. Before any such case is stated by the court the applicant shall enter into recognizances as herein provided. R.S., c. 146, s. 762; 1909, c. 9, s. 2; 1925, c. 38, s. 20.

**763.** If the justice is of opinion that the application is merely frivolous, but not otherwise, he may refuse to state a case, and shall on the request of the applicant sign and deliver to him a certificate of such refusal: Provided that the justice shall not refuse to state a case where the application for that purpose is made to him by or under the direction of the Attorney General of Canada, or of any province. R.S., c. 146, s. 763.

**764.** Where the justice refuses to state a case, it shall be lawful for the applicant to apply to the court, upon an affidavit of the facts, for a rule calling upon the justice, and also upon the respondent, to show cause why such

Rule  
therefor.

Case to be  
stated.

Hearing of  
case stated.

Order  
final.

No costs  
against  
justice.

Amend-  
ment  
of case.

Judge at  
chambers  
has power  
of court.

Enforce-  
ment of  
conviction  
by justice.

By process  
of court.

No  
*certiorari*  
required.

case should not be stated; and such court shall make such rule absolute, or discharge the application, with or without payment of costs, as to the court seems meet.

2. The justice upon being served with such rule absolute shall state a case accordingly, upon the appellant entering into such recognizance as hereinbefore provided. R.S., c. 146, s. 764.

**765.** The court to which a case is transmitted shall hear and determine the question or questions of law arising thereon, and shall thereupon affirm, reverse or modify the conviction, order or determination in respect of which the case has been stated, or remit the matter to the justice with the opinion of the court thereon, and may make such other order in relation to the matter, and such orders as to costs, as to the court seems fit; and all such orders shall be final and conclusive upon all parties.

2. No justice who states and delivers a case shall be liable to any costs in respect or by reason of such appeal against his determination. R.S., c. 146, s. 765.

**766.** The court for the opinion of which a case is stated shall have power, if it thinks fit, to cause the case to be sent back for amendment; and thereupon the same shall be amended accordingly, and judgment shall be delivered after it has been amended.

2. The authority and jurisdiction of the court for the opinion of which a case is stated may, subject to any rules and orders of court in relation thereto, be exercised by a judge of such court sitting in chambers, and as well in vacation as in term time. R.S., c. 146, s. 766.

**767.** After the decision of the court in relation to any case stated for their opinion, the justice in relation to whose determination the case has been stated, or any other justice exercising the same jurisdiction, shall have the same authority to enforce any conviction, order or determination which has been affirmed, amended or made by such court as the justice who originally decided the case would have had to enforce his determination if a case had not been stated.

2. If the court deems it necessary or expedient any order of the court may be enforced by its own process. R.S., c. 146, s. 767.

**768.** No writ of *certiorari* or other writ shall be required for the removal of any conviction, order or other determination in relation to which a case is stated as aforesaid for obtaining the judgment or determination of a superior court on such case. R.S., c. 146, s. 768.



**769.** Every person for whom a case is stated as afore-said in respect of any determination of a justice from which he is entitled to an appeal under section seven hundred and forty-nine, shall be taken to have abandoned his said right of appeal finally and conclusively and to all intents and purposes.

Statement  
of case  
precludes  
appeal.

2. Where, by any special Act, it is provided that there shall be no appeal from any conviction or order, no proceedings shall be taken to have a case stated or signed as aforesaid in any case to which such provision as to appeal in such special Act applies. R.S., c. 146, s. 769.

No case to  
be stated  
when no  
appeal.

*Fees.*

**770.** The fees mentioned in the following tariff and no others shall be and constitute the fees to be taken on proceedings before justices under this Part.

Fees.

(A) FEES TO BE TAKEN BY JUSTICES OF THE PEACE OR THEIR CLERKS.

- 1. Information or complaint and warrant or summons... \$ 1 00
  - 2. Warrant where summons issued in first instance... 0 25
  - 3. Each necessary copy of summons or warrant. 0 25
  - 4. Each summons or warrant to or for a witness or witnesses. (Only one summons on each side to be charged for in each case, which may contain any number of names. If the justice of the case requires it, additional summonses shall be issued without charge). 0 50
  - 5. Information for warrant for witness and warrant... 0 50
  - 6. Each necessary copy of summons or warrant for witness... 0 10
  - 7. For every recognizance... 0 50
  - 8. For hearing and determining case... 0 75
  - 9. If case lasts over two hours... 1 50
  - 10. Where one justice alone cannot lawfully hear and determine the case the same fee for hearing and determining to be allowed to the associate justice.
  - 11. For each warrant of distress or commitment.. 0 50
  - 12. For making up record of conviction or order where the same is ordered to be returned to sessions or on *certiorari*... 1 00
- But in all cases which admit of a summary proceeding before a single justice and wherein no higher penalty than \$20 can be imposed, there shall be charged for the record of conviction not more than... 0 50

13. For copy of any other paper connected with any case, and the minutes of the same is demanded, per folio of 100 words. . . . . 0 10
  14. For every bill of costs when demanded to be made out in detail. . . . . 0 10
- (Items 13 and 14 to be chargeable only when there has been an adjudication).

## (B) CONSTABLES' FEES.

1. Arrest of each individual upon a warrant, or arresting without a warrant an individual who is subsequently convicted or committed for trial. . . . . \$ 1 50
  2. Serving summons or subpcena. . . . . 0 50
  3. Mileage to serve summons, subpcena or to make an arrest, one way, per mile, 15 cents (if no public conveyance is available reasonable livery charges to be allowed).
  4. Mileage when service cannot be effected, upon proof of due diligence, one way. . . . . 0 15
  5. Returning with prisoner after arrest to bring same before a magistrate or justice for preliminary hearing or trial where the magistrate or justice is not at place where warrant was handed constable, and where the journey is of necessity over a different route than that travelled to make the arrest, per mile one way. . . . . 0 15
  6. Taking prisoner to gaol on remand or committal, one way, per mile (if no public conveyance is available reasonable livery charges to be allowed). . . . . 0 15
- (Not payable if this is return journey from taking prisoner before justice double mileage not being chargeable.)
7. Attending magistrate or justices on summary trials, or on examination of prisoners charged with crime for each day necessarily employed, only one day's fees on any number of cases. . . . . 2 00
  8. Serving distress warrant, and returning same. . . . . 1 50
  9. Advertising under distress warrant. . . . . 1 50
  10. Travelling to make distress, or to search for goods to make distress, when no goods are found, one way, per mile. . . . . 0 15
  11. Appraisements, whether by one appraiser or more, two cents in the dollar on the value of the goods.
  12. Catalogue sale and commission, and delivery of goods—five cents in the dollar on the net produce of the goods.

## (C) WITNESSES' FEES.

1. Each day attending trial . . . . . \$ 1 50
2. Mileage travelled to attend trial (one way) per  
mile . . . . . 0 15

## (D) INTERPRETERS' FEES.

1. Each day attending trial . . . . . \$ 2 50
2. Mileage the same as witnesses. R.S., c. 146, s.  
770; 1921, c. 25, s. 15.

## PART XVI.

## SUMMARY TRIAL OF CERTAIN INDICTABLE OFFENCES.

*Interpretation.*

**771.** In this Part, unless the context otherwise re- Definitions.  
quires,

- (a) "magistrate" means and includes, "Magis-  
trate."
- (i) in the provinces of Ontario, Quebec and Mani-  
toba, any recorder, judge of a county court if a  
justice of the peace, commissioner of police, judge  
of the sessions of the peace, and police magistrate,  
district magistrate, or other functionary or tribunal,  
invested by the proper legislative authority with  
power to do alone such acts as are usually required  
to be done by two or more justices, and acting with-  
in the local limits of his or of its jurisdiction,
  - (ii) in the provinces of Nova Scotia and New Bruns-  
wick, any recorder, judge of a county court, stipen-  
diary magistrate or police magistrate, acting within  
the local limits of his jurisdiction, and any com-  
missioner of police and any functionary, tribunal or  
person invested by the proper legislative authority  
with power to do alone such acts as are usually re-  
quired to be done by two or more justices of the  
peace,
  - (iii) in the provinces of British Columbia and Prince  
Edward Island, any two justices sitting together,  
and any functionary or tribunal having the powers  
of two justices,
  - (iv) in the provinces of Saskatchewan and Alberta, a  
judge of any district court, or any two justices, or  
any police magistrate or other functionary or tri-  
bunal having the powers of two justices and acting  
within the local limits of his or its jurisdiction,
  - (v) in the Northwest Territories, any stipendiary  
magistrate, any two justices sitting together, and  
any functionary or tribunal having the powers of  
two justices,

- (vi) in the Yukon Territory, any judge of the Territorial Court, any two justices sitting together, and any functionary or tribunal having the powers of two justices,
- (vii) in all the provinces, where the defendant is charged with any of the offences mentioned in paragraphs (a) and (f) of section seven hundred and seventy-three, any two justices sitting together;
- “The common gaol or other place of confinement.” (b) “the common gaol or other place of confinement,” in the case of any offender whose age at the time of his conviction does not, in the opinion of the magistrate, exceed sixteen years, includes any reformatory prison provided for the reception of juvenile offenders in the province in which the conviction referred to takes place, and to which by the law of that province the offender may be sent; and,
- “Property.” (c) “property” includes everything within the meaning of “valuable security,” as defined by this Act.
- Valuable security, how reckoned. 2. In any case where the value of any valuable security is necessary to be determined it shall be reckoned in the manner prescribed by section four. R.S., c. 146, s. 771; 1907, c. 45, s. 6.

*Application of Part.*

Part XVII not affected.

**772.** Nothing in this Part shall affect the provisions of Part XVII, and this Part shall not extend to persons punishable under that Part so far as regards offences for which such persons may be punished thereunder.

2. The provisions of this Part do not affect any absolute summary jurisdiction given to justices by any other Part of this Act. R.S., c. 146, s. 772; 1909, c. 9, s. 2.

*Jurisdiction—Trial with Consent.*

Offences.

**773.** Whenever any person is charged before a magistrate,

Theft not exceeding ten dollars.

(a) with theft, or obtaining money or property by false pretenses, or unlawfully receiving stolen property, where the value of the property does not, in the judgment of the magistrate, exceed ten dollars;

Attempt.

(b) with attempt to commit theft;

Aggravated assault.

(c) with unlawfully wounding or inflicting grievous bodily harm upon any other person, either with or without a weapon or instrument;

Indecent assault.

(d) with indecent assault upon a male person whose age does not, in the opinion of the magistrate, exceed fourteen years, when such assault is of a nature which cannot, in the opinion of the magistrate, be sufficiently punished by a summary conviction before him under any other Part; or with indecent assault upon a female, not amounting, in the magistrate's opinion, to an assault with intent to commit a rape;

(e) with assaulting or obstructing any public or peace officer engaged in the execution of his duty, or any person acting in aid of such officer; Assault on peace officer.

(f) with keeping a disorderly house or with being an inmate of a common bawdy house under section two hundred and twenty-nine; Summary trial of keeper or inmates.

(g) with any offence under section two hundred and thirty-five; Offence under s. 235.

(h) with any offence under subsection two of section four hundred and twelve; or

(i) with any offence under paragraph (b) of section four hundred and forty-two;

the magistrate may, subject to the subsequent provisions of this Part, hear and determine the charge in a summary way, but only with the consent of the party so charged, subject to the exceptions provided in section seven hundred and seventy-seven. R.S., c. 146, s. 773; 1915, c. 12, s. 8; 1920, c. 43, s. 9; 1921, c. 25, s. 7. Summary hearing.

**774.** When any person is charged,

(a) in the Province of Ontario before a police magistrate or before a stipendiary magistrate in any county, district or provisional county in such Province; Summary trial in certain cases.

(b) in any city or incorporated town, having a population of not less than 2,500, according to the last decennial or other census taken under the authority of an Act of Parliament of Canada before any police or stipendiary magistrate or before any recorder of any such city or town, if he exercises judicial functions;

(c) in the Yukon Territory before any judge of the Territorial court or a police magistrate; or

(d) in the Province of Quebec before any district magistrate or judge of the sessions;

with having committed any offence (except culpable homicide or any of the offences mentioned in section five hundred and eighty-three) or has been committed to a gaol in any county, district or provisional county under the warrant of any justice for trial on a charge of being guilty of any such offence such person may, with his own consent, be tried before such recorder, judge or magistrate, as the case may be, and may, if found guilty, be sentenced to the punishment provided for such offence by this Act.

2. Where the offence is one of those mentioned in section seven hundred and seventy-three, the provisions of sections seven hundred and seventy-eight, seven hundred and seventy-nine and seven hundred and eighty shall apply thereto. R.S., c. 146, s. 777; 1909, c. 9, s. 2.

Trial by  
jury if  
required by  
Attorney  
General.

**775.** Where an offence charged is punishable with imprisonment for a period exceeding five years the Attorney General may require that the charge be tried by a jury, and may so require notwithstanding that the person charged has consented to be tried by a magistrate under section seven hundred and seventy-four, and thereupon the magistrate shall have no jurisdiction to try or sentence such person under said section. 1909, c. 9, s. 2.

Theft,  
false  
pretences  
and  
receiving  
stolen  
property  
exceeding  
ten dollars.

**776.** When any person is charged before a magistrate, other than one of those mentioned in section seven hundred and seventy-four, with theft or with having obtained property by false pretences, or with having unlawfully received stolen property, and the value of the property stolen, obtained or received exceeds ten dollars, and the evidence in support of the prosecution is, in the opinion of the magistrate, sufficient to put the person on his trial for the offence charged, such magistrate, if the case appears to him to be one which may properly be disposed of in a summary way, shall after the charge has been reduced to writing, read it to the said person, and shall explain to him that he is not obliged to plead or answer before such magistrate, and that if he does not plead or answer before him, he will be committed for trial in the usual course.

Procedure.

Consent and  
trial.

2. If the person charged as mentioned in the preceding subsection consents to be tried by the magistrate, the magistrate shall then ask him whether he is guilty or not guilty of the charge, and if such person says that he is guilty, the magistrate shall then cause a plea of guilty to be entered upon the proceedings, and sentence him to the same punishment as he would have been liable to if he had been convicted upon indictment in the ordinary way; and if he says that he is not guilty, he shall be remanded to gaol to await his trial in the usual course. R.S., c. 146, ss. 782 and 783; 1908, c. 18, s. 11.

*Trial without consent of person charged.*

Absolute  
jurisdiction  
in certain  
cases.

**777.** The jurisdiction of the magistrate is absolute, and does not depend on the consent of the person charged to be tried by such magistrate, in the following cases:

- (a) Where any person is charged with keeping a disorderly house, or with being an inmate of a common bawdy house;
- (b) Where any person, being a seafaring person and only transiently in Canada, and having no permanent domicile therein, is charged, either within the city of Quebec as limited for the purpose of the police ordinance, or within the city of Montreal as so limited, or in any other seaport city or town in Canada where there is such magistrate, with the commission there-

in of any of the offences in section seven hundred and seventy-three mentioned, and also in the case of any other person charged with any such offence on the complaint of any such seafaring person whose testimony is essential to the proof of the offence;

(c) In the provinces of British Columbia, Prince Edward Island, Saskatchewan, Alberta and in the Northwest Territories, and the Yukon Territory, where any person is charged with an offence mentioned in any of the subsections of section seven hundred and seventy-three, except paragraph (h);

2. The jurisdiction of a magistrate who is one of those mentioned in section seven hundred and seventy-four is absolute and does not depend on the consent of the person charged to be tried by such magistrate in cities having a population of not less than 25,000 according to the last decennial or other census taken under the authority of an Act of the Parliament of Canada where the offence is one of those mentioned in paragraph (a) of section seven hundred and seventy-three. R.S., c. 146, ss. 775 and 776; 1909, c. 9, s. 2; 1921, c. 25, s. 16.

#### *Procedure.*

**778.** In the case of an offence charged under paragraph (a) or (b) of section seven hundred and seventy-three, the magistrate, after hearing the whole case for the prosecution and for the defence, shall, if he finds the charge proved, convict the person charged and commit him to the common gaol or other place of confinement, there to be imprisoned, with or without hard labour, for any term not exceeding six months. R.S., c. 146, s. 780.

**779.** In any case summarily tried under paragraphs (c), (d), (e), (f), (g), (h) or (i) of section seven hundred and seventy-three, if the magistrate finds the charge proved, he may, except in the cases mentioned in subsections three and four of section two hundred and twenty-nine, where the punishment shall be as therein provided, convict the person charged and commit him to the common gaol or other place of confinement, there to be imprisoned, with or without hard labour, for any term not exceeding six months, or may condemn him to pay a fine not exceeding, with the costs in the case, two hundred dollars, or to both fine and imprisonment not exceeding the said sum and term.

2. The provisions of section one thousand and thirty-five shall not apply or extend to any person convicted more than twice under said paragraph (f) of section seven hundred and seventy-three for keeping a common bawdy house,

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or

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or of keeping a common bawdy house if such offence was committed in any premises with respect to which premises more than two convictions have been made, whether the same person has been convicted as keeper thereof or not, and any such person so convicted shall not in either case be sentenced to less than three months' imprisonment, nor shall any sentence imposed in either of the cases be suspended under the provisions of section one thousand and eighty-one without the concurrence of the counsel acting for the Crown in the prosecution of the offender. 1913, c. 13, s. 27; 1920, c. 43, ss. 9 and 13; 1921, c. 25, s. 7.

Enforcing  
conviction.

**780.** The fine in the last preceding section mentioned may be levied by warrant of distress under the hand of the magistrate, or the person convicted may be condemned, in addition to any other imprisonment on the same conviction, to be committed to the common gaol or other place of confinement for a further term not exceeding six months, unless such fine is sooner paid. R.S., c. 146, s. 781.

Proceedings  
on  
arraign-  
ment.

**781.** Whenever the magistrate, before whom any person is charged as aforesaid, proposes to dispose of the case summarily under the provisions of this Part, such magistrate, after ascertaining the nature and extent of the charge, but before the formal examination of the witnesses for the prosecution, and before calling on the person charged for any statement which he wishes to make, shall state to such person the substance of the charge against him.

Accused  
put to  
election.

2. If the charge is not one that can be tried summarily without the consent of the accused, the magistrate shall state to the accused that he

(a) is charged with the offence, describing it;

(b) has the option to be forthwith tried by the magistrate without the intervention of a jury, or to remain in custody or under bail, as the court decides, to be tried in the ordinary way by the court having criminal jurisdiction.

Charge  
reduced to  
writing.

3. If the person charged consents to the charge being summarily tried and determined as aforesaid, or if the power of the magistrate to try it does not depend upon the consent of the accused, the magistrate shall after the charge has been reduced to writing read the same to such person, and shall then ask him whether he is guilty or not of such charge.

Proceedings  
on  
confession.

4. If the person charged confesses the charge the magistrate shall then proceed to pass such sentence upon him as by law may be passed in respect to such offence, subject to the provisions of this Act; but if the person charged says that he is not guilty, the magistrate shall then examine the witnesses for the prosecution, and when the ex-

If accused  
pleads  
not guilty.



amination has been completed, the magistrate shall inquire of the person charged whether he has any defence to make to such charge, and if he states that he has a defence the magistrate shall hear such defence, and shall then proceed to dispose of the case summarily. R.S., c. 146, s. 778; 1909, c. 9, s. 2.

**782.** When a corporation is to be charged the summons may be served on the mayor or chief officer of such corporation, or upon the clerk or secretary or the like officer thereof, and may be in the same form as if the defendant were a natural person.

Procedure in case of corporations in summary trials of indictable offences.

2. The corporation in such case shall appear by attorney, who may on its behalf elect, and confess or deny the charge, and thereupon the case shall proceed as if the defendant were a natural person.

3. If the corporation does not appear and confess or deny the charge, the magistrate may proceed in the absence of the defendant as upon a preliminary investigation. 1919, c. 46, s. 13.

**783.** Whenever the person charged appears to be of, or about, or under the age of sixteen years, and is not represented by counsel present at the time, the magistrate shall not proceed under section seven hundred and eighty-one without first asking the person charged what his age is.

Proceedings when accused is a minor.

2. If such person then states his age as being sixteen years or less, the magistrate shall defer any further action, and shall at once cause notice to be given to the parent or parents of such person, living in the province, if any, or if he has no such parents, or if his parents are unknown, then to the guardian or householder, if any, with whom he ordinarily resides, of such person having been so charged, and of the time and place when such person will be called on to make his election as to whether he will be tried by the said magistrate.

Notice to parents or guardian.

3. Such notice shall allow reasonable time for the said parents, guardian or householder to be present and advise the said person charged before he is called on to so elect.

Reasonable time.

4. At the time fixed by such notice, or if it appears to the satisfaction of the magistrate that there is no person for whom notice is provided as aforesaid, or that all reasonable means to give such notice have been taken without success, then, at the earliest convenient time, the magistrate shall proceed as in section seven hundred and eighty-one provided.

Procedure if notice cannot be given.

5. If any person notified as aforesaid is present at the time so fixed, the magistrate shall afford him an opportunity to advise the person charged before he is called upon to elect.

Advice to be given.

Notice how  
given.

6. The notice provided for by this section may be given by registered letter, if the person to be notified does not reside in the city, town, municipality or other place where the proceedings are had. R.S., c. 146, s. 779.

Magistrate  
may decide  
not to  
proceed  
summarily.

**784.** If, in any proceeding under this Part, it appears to the magistrate that the offence is one which, owing to a previous conviction of the person charged, or from any other circumstance, ought to be made the subject of prosecution by indictment rather than to be disposed of summarily, such magistrate may, before the accused person has made his defence, decide not to adjudicate summarily upon the case; but a previous conviction shall not prevent the magistrate from trying the offender summarily, if he thinks fit so to do. R.S., c. 146, s. 784.

Election of  
trial by  
jury to be  
stated on  
warrant of  
committal.

**785.** If, when his consent is necessary, the person charged elects to be tried before a jury, the magistrate shall proceed to hold a preliminary inquiry as provided in Parts XIII and XIV, and if the person charged is committed for trial, shall state in the warrant of committal the fact of such election having been made. R.S., c. 146, s. 785.

Full  
defence  
allowed.

**786.** In every case of summary proceedings under this Part the person accused shall be allowed to make his full answer and defence, and to have all witnesses examined and cross-examined by counsel or solicitor. R.S., c. 146, s. 786.

Proceeding  
in open  
court.

**787.** Every court held by a magistrate for the purposes of this Part shall be an open public court. R.S., c. 146, s. 787.

Procuring  
attendance  
of  
witnesses.

**788.** The magistrate before whom any person is charged under the provisions of this Part may, by summons, or by writing under his hand, require the attendance of any person as a witness upon the hearing of the case, at a time and place to be named in such summons, and such magistrate may bind, by recognizance, all persons whom he considers necessary to be examined, touching the matter of such charge, to attend at the time and place appointed by him and then and there to give evidence upon the hearing of such charge.

By warrant  
if summons  
disobeyed.

2. If any person so summoned, or required or bound as aforesaid, neglects or refuses to attend in pursuance of such summons or recognizance, and if proof is made of such person having been duly summoned as hereinafter mentioned, or bound by recognizance as aforesaid, the magistrate before whom such person should have attended may issue a warrant to compel his appearance as a witness. R.S., c. 146, s. 788.

**789.** Every summons issued under the provisions of this Part may be served by delivering a copy of the summons to the person summoned, or by delivering a copy of the summons to some inmate of such person's usual place of abode apparently over sixteen years of age. Service of summons.

2. Every person required by any writing under the hand of the magistrate to attend and give evidence as aforesaid shall be deemed to have been duly summoned. R.S., c. 146, s. 789. Writing sufficient.

**790.** Whenever the magistrate finds the offence not proved, he shall dismiss the charge, and make out and deliver to the person charged a certificate under his hand stating the fact of such dismissal. R.S., c. 146, s. 790. Dismissal of charge.

**791.** Every conviction under this Part shall have the same effect as a conviction upon indictment for the same offence. R.S., c. 146, s. 791. Effect of conviction.

**792.** Every person who obtains a certificate of dismissal or is convicted under the provisions of this Part, shall be released from all further or other criminal proceedings for the same cause. R.S., c. 146, s. 792. Certificate of dismissal or conviction.

**793.** The magistrate adjudicating under the provisions of this Part shall transmit the conviction, or a duplicate of the certificate of dismissal, with the written charge, the depositions of witnesses for the prosecution and for the defence, and the statement of the accused, to the clerk of the peace or other proper officer for the district, city, county or place wherein the offence was committed, there to be kept by the proper officer among the records of the general or quarter sessions of the peace or of any court discharging the functions of a court of general or quarter sessions of the peace. R.S., c. 146, s. 793. Result of hearing to be filed in court of sessions.

**794.** A copy of such conviction, or of such certificate of dismissal, certified by the proper officer of the court, or proved to be a true copy, shall be sufficient evidence to prove a conviction or dismissal for the offence mentioned therein in any legal proceedings. R.S., c. 146, s. 794. Evidence of conviction or dismissal.

**795.** The magistrate by whom any person has been convicted under the provisions of this Part may order restitution of the property stolen, or taken or obtained by false pretenses, in any case in which the court, before whom the person convicted would have been tried but for the provisions of this Part, might by law order restitution. R.S., c. 146, s. 795. Restitution of property.

Remand by  
justice to  
magistrate.

**796.** Whenever any person is charged before any justice or justices, with any offence mentioned in section seven hundred and seventy-three, and in the opinion of such justice or justices the case is proper to be disposed of summarily by a magistrate, as in this Part provided, the justice or justices before whom such person is so charged may, if he or they see fit, remand such person for trial before the nearest magistrate in like manner in all respects as a justice or justices are authorized to commit an accused person for trial at any court: Provided that no justice or justices, in any province, shall so remand any person for trial before any magistrate in any other province.

Proviso.

Jurisdic-  
tion.

2. Any person so remanded for trial before a magistrate in any city, may be examined and dealt with by the said magistrate or any other magistrate in the same city. R.S., c. 146, s. 796.

Where  
provisions  
of this Part  
as to  
appeals  
apply.

**797.** When any of the offences mentioned in paragraphs (a) or (f) of section seven hundred and seventy-three is tried in any of the provinces under this Part before two justices of the peace sitting together, an appeal shall lie from a conviction for the offence, in the same manner as from summary convictions under Part XV, and all provisions of that Part relating to appeals shall apply to every such appeal.

Convic-  
tions and  
orders.

2. The provisions of section one thousand one hundred and twenty-four shall apply to convictions or orders made under the provisions of this Part. 1913, c. 13, s. 28.

Part XV  
or  
provisions  
as to pre-  
liminary  
inquiries  
not to  
apply.

**798.** Except as specially provided for in the two last preceding sections, neither the provisions of this Act relating to preliminary inquiries before justices, nor of Part XV, shall apply to any proceedings under this Part. R.S., c. 146, s. 798.

Forms to  
be used.

**799.** A conviction or certificate of dismissal under this Part may be in the form 55, 56, or 57 applicable to the case or to the like effect; and whenever the nature of the case requires it, such forms may be altered by omitting the words stating the consent of the person to be tried before the magistrate, and by adding the requisite words, stating the fine imposed, if any, and the imprisonment, if any, to which the person convicted is to be subjected, if the fine is not sooner paid. R.S., c. 146, s. 799.

May be  
altered.

## PART XVII.

## TRIAL OF JUVENILE OFFENDERS FOR INDICTABLE OFFENCES.

*Interpretation.*

**800.** In this Part, unless the context otherwise re- Definitions.  
quires,

- (a) "two or more justices," or "the justices," includes, "Two or more justices," or "the justices."  
 (i) in the provinces of Ontario and Manitoba, any judge of the county court being a justice, police magistrate or stipendiary magistrate, or any two justices, acting within the limits of their respective jurisdictions,  
 (ii) in the province of Quebec, any two or more justices, the sheriff of any district, except Montreal and Quebec, the deputy sheriff of Gaspé, and any recorder, judge of the sessions of the peace, police magistrate, district magistrate or stipendiary magistrate, acting within the limits of their respective jurisdictions,  
 (iii) in the provinces of Nova Scotia, New Brunswick, Prince Edward Island and British Columbia, any functionary or tribunal invested by the proper legislative authority with power to do acts usually required to be done by two or more justices,  
 (iv) in the provinces of Saskatchewan and Alberta, a judge of any district court, or any two justices, or any police magistrate or other functionary or tribunal having the powers of two justices and acting within the local limits of his or its jurisdiction,  
 (v) in the Northwest Territories, any stipendiary magistrate, any two justices sitting together, and any functionary or tribunal having the powers of two justices, and,  
 (vi) in the Yukon Territory, any judge of the Territorial Court, any two justices sitting together, and any functionary or tribunal having the powers of two justices;  
 (b) "the common gaol or other place of confinement" "Common gaol."  
 includes any reformatory prison provided for the reception of juvenile offenders in the province in which the conviction referred to takes place, and to which, by the law of that province, the offender may be sent. R.S., c. 146, s. 800; 1907, c. 45, s. 6.

*Application of Part.*

**801.** The provisions of this Part shall not apply to Not to certain offences in  
 any offence committed in the province of British Columbia or Prince Edward Island, punishable by imprisonment for B.C. or P.E.I.  
 927 two  
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two years and upwards; and in such provinces it shall not be necessary to transmit any recognizance to the clerk of the peace or other proper officer. R.S., c. 146, s. 801.

*Jurisdiction.*

Theft by  
person not  
over  
sixteen.

**802.** Every person charged with having committed, or having attempted to commit any offence which is theft, or punishable as theft, and whose age, at the period of the commission or attempted commission of such offence, does not, in the opinion of the justice before whom he is brought or appears, exceed the age of sixteen years, shall, upon conviction thereof in open court, upon his own confession or upon proof, before any two or more justices, be committed to the common gaol or other place of confinement within the jurisdiction of such justices, there to be imprisoned, with or without hard labour, for any term not exceeding three months, or, in the discretion of such justices, shall forfeit and pay such sum, not exceeding twenty dollars, as such justices adjudge. R.S., c. 146, s. 802.

No  
imprison-  
ment in  
reformatory  
in Ontario.

**803.** The provisions of this Part shall not authorize two or more justices to sentence offenders to imprisonment in a reformatory in the province of Ontario. R.S., c. 146, s. 803.

Not to  
prevent  
summary  
conviction.

**804.** Nothing in this Part shall prevent the summary conviction of any person who may be tried thereunder before one or more justices, for any offence for which he is liable to be so convicted under any other Part of this Act or under any other Act. R.S., c. 146, s. 804.

*Procedure.*

Procuring  
appearance  
of accused.

**805.** Whenever any person, whose age is alleged not to exceed sixteen years, is charged with any offence mentioned in section eight hundred and two, on the oath of a credible witness, before any justice, such justice may issue his summons or warrant, to summon or to apprehend the person so charged to appear before any two justices, at a time and place to be named in such summons or warrant. R.S., c. 146, s. 805.

Remand  
of accused.

**806.** Any justice, if he thinks fit, may remand for further examination or for trial, or suffer to go at large, upon his finding sufficient sureties, any such person charged before him with any offence aforesaid.

Sureties  
bound by  
recogniz-  
ances.

2. Every such surety shall be bound by recognizance conditioned for the appearance of such person before the same or some other justice or justices for further examination, or for trial before two or more justices as aforesaid, or for trial by indictment at the proper court of criminal jurisdiction, as the case may be.

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3.

3. Every such recognizance may be enlarged, from time to time, by any such justice or justices to such further time as he or they appoint; and every such recognizance not so enlarged shall be discharged without fee or reward, when the person has appeared according to the condition thereof. R.S., c. 146, s. 806.

**807.** The justices before whom any person is charged and proceeded against under the provisions of this Part, before such person is asked whether he has any cause to show why he should not be convicted, shall address the person so charged in these words, or words to the like effect:—

“We shall have to hear what you wish to say in answer to the charge against you; but if you wish to be tried by a jury, you must object now to our deciding upon it at once.”

2. And if such person, or a parent or guardian of such person, then objects, no further proceedings shall be had under the provisions of this Part; but the justices may deal with the case according to the provisions set out in Parts XIII and XIV, as if the accused were before them thereunder. R.S., c. 146, s. 807.

**808.** If the justices are of opinion, before the person charged has made his defence, that the charge is, from any circumstance, a fit subject for prosecution by indictment, or if the person charged, upon being called upon to answer the charge, objects to the case being summarily disposed of under the provisions of this Part, the justices shall not deal with it summarily, but may proceed to hold a preliminary inquiry as provided for in Parts XIII and XIV.

2. In case the accused has elected to be tried by a jury, the justices shall state in the warrant of commitment the fact of such election having been made. R.S., c. 146, s. 808.

**809.** Any justice may, by summons or by writing under his hand, require the attendance of any person as a witness upon the hearing of any case before two justices, under the authority of this Part, at a time and place to be named in such summons or writing. R.S., c. 146, s. 809.

**810.** Any such justice may require and bind by recognizance every person whom he considers necessary to be examined, touching the matter of such charge, to attend at the time and place appointed by him and then and there to give evidence upon the hearing of such charge. R.S., c. 146, s. 810.

Warrant  
when  
witness  
disobeys  
summons.

**811.** If any person summoned or required or bound, as aforesaid, neglects or refuses to attend in pursuance of such summons or recognizance, and if proof is given of such person having been duly summoned, as hereinafter mentioned, or bound by recognizance, as aforesaid, either of the justices before whom any such person should have attended, may issue a warrant to compel his appearance as a witness. R.S., c. 146, s. 811.

Service of  
summons.

**812.** Every summons issued under the authority of this Part may be served by delivering a copy thereof to the person, or to some inmate, apparently over sixteen years of age, at such person's usual place of abode, and every person so required by any writing under the hand or hands of any justice or justices to attend and give evidence as aforesaid, shall be deemed to have been duly summoned. R.S., c. 146, s. 812.

Discharge  
of accused.

**813.** If the justices upon the hearing of the case deem the offence not proved, or that it is not expedient to inflict any punishment, they shall dismiss the person charged, and make out and deliver to him a certificate in the form 58, or to the like effect, under the hands of such justices, stating the fact of such dismissal: Provided that if the dismissal shall be on account only of it being deemed inexpedient to inflict any punishment the accused shall be discharged only on his finding sureties for his good behaviour. R.S., c. 146, s. 813.

Sureties for  
good  
behaviour.

Form of  
conviction.

**814.** The justices before whom any person is summarily convicted of any offence in this Part previously mentioned, may cause the conviction to be drawn up in the form 59, or in any other form to the same effect, and the conviction shall be good and effectual to all intents and purposes. R.S., c. 146, s. 814.

Further  
proceeding  
barred.

**815.** Every person who obtains such certificate of dismissal, or is so convicted, shall be released from all further or other criminal proceedings for the same cause. R.S., c. 146, s. 815.

Conviction  
and recog-  
nizances to  
be filed.

**816.** The justice before whom any person is convicted under the provisions of this Part shall forthwith transmit the conviction and recognizances to the clerk of the peace or other proper officer, for the district, city, county or union of counties wherein the offence was committed, there to be kept by the proper officer among the records of the court of general or quarter sessions of the peace, or of any other court discharging the functions of a court of general or quarter sessions of the peace. R.S., c. 146, s. 816.



**817.** No conviction under the authority of this part shall be attended with any forfeiture, except such penalty as is imposed by the sentence; but whenever any person is adjudged guilty under the provisions of this Part, the presiding justice may order restitution of property in respect of which the offence was committed, to the owner thereof or his representatives. Restitution of property.

2. If such property is not then forthcoming, the justices, whether they award punishment or not, may inquire into and ascertain the value thereof in money; and, if they think proper, order payment of such sum of money to the true owner, by the person convicted, either at one time or by instalments, at such periods as the justices deem reasonable. Value of property ordered to be paid.

3. The person ordered to pay such sum may be sued for the same as a debt in any court in which debts of the like amount are, by law, recoverable, with costs of suit, according to the practice of such court. Recovery of same. R.S., c. 146, s. 817.

**818.** Whenever the justices adjudge any offender to forfeit and pay a pecuniary penalty under the authority of this Part, and such penalty is not forthwith paid, they may, if they deem it expedient, appoint some future day for the payment thereof, and order the offender to be detained in safe custody until the day so appointed, unless such offender gives security to the satisfaction of the justices, for his appearance on such day; and the justices may take such security by way of recognizance or otherwise in their discretion. Proceedings where penalty is not paid.

2. If at any time so appointed such penalty has not been paid, the same or any other justices may, by warrant under their hands, commit the offender to the common gaol or other place of confinement within their jurisdiction, there to remain for any time not exceeding three months, reckoned from the day of such adjudication. Commitment to gaol. R.S., c. 146, s. 818; 1921, c. 25, s. 21.

**819.** The justices before whom any person is prosecuted or tried for any offence cognizable under this Part may, in their discretion, at the request of the prosecutor or of any other person who appears on recognizance or summons to prosecute or give evidence against such person, order payment to the prosecutor and witnesses for the prosecution, of such sums as to them seem reasonable and sufficient, to reimburse such prosecutor and witnesses for the expenses they have severally incurred in attending before them, and in otherwise carrying on such prosecution, and also to compensate them for their trouble and loss of Costs.

59½

931

time

R.S., 1927.

time therein, and to the constables and other peace officers payment for the apprehension and detention of any persons so charged.

When no conviction.

2. The justices may, although no conviction takes place, order all or any of the payments aforesaid to be made, when they are of opinion that the persons, or any of them, have acted in good faith. R.S., c. 146, s. 819.

Costs to be certified by justices.

**820.** The amount of expenses of attending before the justices and the compensation for trouble and loss of time therein, and the allowances to the constables and other peace officers for the apprehension and detention of the offender, and the allowances to be paid to the prosecutor, witnesses and constables for attending at the trial or examination of the offender, shall be ascertained by and certified under the hands of such justices.

Limit.

2. The amount of the costs, charges and expenses attending any such prosecution, to be allowed and paid as aforesaid, shall not in any one case exceed the sum of eight dollars. R.S., c. 146, s. 820.

Order for payment.

**821.** Every such order of payment to any prosecutor or other person, after the amount thereof has been certified by the proper justices as aforesaid, shall be forthwith made out and delivered by the said justices or one of them, or by the clerk of the peace or other proper officer, as the case may be, to such prosecutor or other person, upon such clerk or officer being paid his lawful fee for the same, and shall be made upon the officer to whom fines imposed under the authority of this Part are required to be paid over in the district, city, county or union of counties in which the offence was committed, or was supposed to have been committed.

On officer.

Officer must pay on sight of order.

2. Such officer shall upon sight of every such order, forthwith pay to the person named therein, or to any other person duly authorized to receive the same on his behalf, out of any moneys received by him under this Part, the money in such order mentioned, and he shall be allowed the same in his accounts of such moneys. R.S., c. 146, s. 821.

## PART XVIII.

### SPEEDY TRIALS OF INDICTABLE OFFENCES.

#### *Application of Part.*

Exception.

**822.** The provisions of this part do not apply to the Northwest Territories or the Yukon Territory, and in the province of Alberta shall be in force subject to such modifications as are necessary to give effect to the provisions of

the Northwest Territories Act, chapter fifty of the Revised Statutes of Canada, 1886, so long as the same are applicable to the said province. 1905, c. 3; 1907, c. 44, s. 1; 1907, c. 45, s. 6.

*Interpretation.*

**823.** In this Part, unless the context otherwise re- Definitions.  
quires,

(a) "judge" means and includes,

"Judge."

- (i) in the province of Ontario, any judge of a county or district court, junior judge or deputy judge authorized to act as chairman of the general sessions of the peace,
  - (ii) in the province of Quebec, in any district wherein there is a judge of the sessions of the peace, such judge of the sessions, and in any district wherein there is no judge of the sessions of the peace, but wherein there is a district magistrate, such district magistrate, or any judge of sessions of the peace; and in any district wherein there is no judge of the sessions of the peace and no district magistrate, any judge of the sessions of the peace or the sheriff of such district,
  - (iii) in each of the provinces of Nova Scotia, New Brunswick and Prince Edward Island, any judge of a county court,
  - (iv) in the province of Manitoba, the Chief Justice, or a puisne judge of the Court of King's Bench, or any judge of a county court,
  - (v) in the province of British Columbia, the Chief Justice or a puisne judge of the Supreme Court, or any judge of a county court,
  - (vi) in the provinces of Saskatchewan and Alberta, a judge of the Superior Court of criminal jurisdiction of the province, or of any district court;
- (b) "prosecuting officer" includes, in the province of "Prosecuting  
officer."  
Ontario, the County Crown Attorney, in the provinces of Nova Scotia, New Brunswick and Prince Edward Island, any clerk of a county court, and in the province of Manitoba, any Crown Attorney, the prothonotary of the Court of King's Bench, and any deputy prothonotary thereof, any deputy clerk of the peace, and the deputy clerk of the Crown and pleas for any district in the said province, and in the provinces of Saskatchewan and Alberta, any local registrar, clerk or deputy clerk of the Superior Court of criminal jurisdiction of the province, or any clerk or acting clerk of a district court, or any person conducting

ducting under proper authority the Crown business of the court. R.S., c. 146, s. 823; 1907, c. 8, s. 2; 1907, c. 45, s. 6; 1909, c. 9, s. 2.

*Jurisdiction.*

Judge a  
court of  
record.

Title of  
court  
throughout  
Canada  
Exception.

**824.** The judge sitting on any trial under this Part, for all the purposes thereof and proceedings connected therewith or relating thereto, shall be a court of record, and in every province of Canada, except in the province of Quebec, and except as hereinafter provided, such court shall be called the county court judge's criminal court of the county or union of counties or judicial district, in which the same is held.

2. In the provinces of Saskatchewan and Alberta, and in the provisional judicial districts of the province of Ontario, such courts shall be called the district court judge's criminal court of the district in which the same is held.

3. The record in any such case shall be filed among the records of the court over which the judge presides, and as part of such records. 1907, c. 45, s. 6; 1909, c. 9, s. 2.

**825.** Every person committed to gaol for trial on a charge of being guilty of any of the offences which are mentioned in section five hundred and eighty-two as being within the jurisdiction of the general or quarter sessions of the peace, may, with his own consent, be tried in any province of Canada, and, if convicted, sentenced by the judge.

Entry of  
consent.

2. An entry shall be made of such consent at the time the same is given.

Trial out  
of sessions  
and term.

3. Such trial shall be had under and according to the provisions of this Part out of sessions and out of the regular term or sittings of the court, and whether the court before which, but for such consent, the said person would be triable for the offence charged or the grand jury thereof is or is not then in session.

Committed  
for trial.

4. A person who has been bound over by a justice or justices under the provisions of section six hundred and ninety-six, and has been surrendered by his sureties, and is in custody on the charge, or who is otherwise in custody awaiting trial on the charge, shall be deemed to be committed for trial within the meaning of this section.

Trial by  
jury in  
certain  
cases.

5. Where an offence charged is punishable with imprisonment for a period exceeding five years, the Attorney General may require that the charge be tried by a jury, and may so require notwithstanding that the person charged has consented to be tried by the judge under this Part, and thereupon the judge shall have no jurisdiction to try or sentence the accused under this Part.

6. A person accused of any offence within subsection one of this section, who has been bound over by a justice or justices under the provisions of section six hundred and ninety-six and is at large under bail may notify the sheriff that he desires to make his election under this Part, and thereupon the sheriff shall notify the judge, or the prosecuting officer, as provided in section eight hundred and twenty-six. Notice by accused of desire to make election.

7. In such case, the judge having fixed the time when, and the place where the accused shall make his election, the sheriff shall notify the accused thereof, and the accused shall attend at the time and place so fixed, and the subsequent proceedings shall be the same as in other cases under this Part. Attendance of accused.

8. The recognizance taken when the accused was bound over as aforesaid shall in such case be obligatory upon each of the persons bound thereby, as to all things therein mentioned, with reference to the appearance of the accused at the time and place so fixed and to the trial and proceedings thereupon, in like manner as if such recognizance had been originally entered into with reference thereto: Provided that notice in writing shall be given either personally or by leaving the same at the place of residence, as described in the recognizance, of the persons bound as sureties by such recognizance, that the accused is to appear at such time and place to make his election as aforesaid. Recognizance valid in such cases. Notice to sureties.  
R.S., c. 146, s. 825; 1907, c. 45, s. 6; 1909, c. 9, s. 2.

### *Procedure.*

**826.** Every sheriff shall, within twenty-four hours after any prisoner charged as aforesaid is committed to gaol for trial, notify the judge in writing that such prisoner is so confined, stating his name and the nature of the charge preferred against him, whereupon, with as little delay as possible, such judge shall cause the prisoner to be brought before him. Sheriff to notify judge after committal of accused.

2. Where the judge does not reside in the county or district in which the prisoner was committed, the judge having received the notification and having obtained the depositions on which the prisoner was committed, if any, may forward them to the prosecuting officer with instructions to cause the prisoner to be brought before him instead of the judge, naming as early a day as possible for the trial in case the prisoner shall elect to be tried by the judge, without a jury, and the prosecuting officer shall, in such case, with as little delay as possible cause the prisoner to be brought before him. Prosecuting officer to be notified to act where judge does not reside in county.  
R.S., c. 146, s. 826; 1909, c. 9, s. 2.

Arraign-  
ment.

**827.** The judge, having first obtained the depositions on which the prisoner was so committed, if any, or the prosecuting officer, as the case may be, shall state to the prisoner

The charge.

(a) that he is charged with the offence, describing it;

The option.

(b) that he has the option to be tried forthwith before a judge without the intervention of a jury, or to remain in custody or under bail, as the court decides, to be tried in the ordinary way by the court having criminal jurisdiction.

Procedure  
where  
accused  
consents to  
trial  
without  
jury.

2. If the prisoner has been brought before the prosecuting officer, and consents to be tried by the judge, without a jury, the trial shall proceed on the day named by the judge in the manner provided by the next following subsection.

Prosecuting  
officer  
prefers  
charge.

3. In such case or if the prisoner has been brought before the judge and consents to be tried by him without a jury, the prosecuting officer shall prefer the charge against him for which he has been committed for trial, or any charge founded on the facts or evidence disclosed in the depositions, and if, upon being arraigned upon the charge, the prisoner pleads guilty, the prosecuting officer shall draw up a record as nearly as may be in form 60.

Plea of  
guilty.

Entered on  
record.  
Sentence.

4. Such plea shall be entered on the record, and the judge shall pass the sentence of the law on such prisoner, which shall have the same force and effect as if passed by a court having jurisdiction to try the offence in the ordinary way. 1909, c. 9, s. 2; 1925, c. 38, s. 21.

Demand  
of jury  
trial.

**828.** If the prisoner on being brought before the prosecuting officer or before the judge as aforesaid demands a trial by jury, he shall be remanded to gaol.

Re-election.

2. Any prisoner who has elected to be tried by jury may, notwithstanding such election, at any time before such trial has commenced, and whether an indictment has been preferred against him or not, notify the sheriff that he desires to re-elect, and it shall thereupon be the duty of the sheriff and judge or prosecuting officer to proceed as directed by section eight hundred and twenty-six.

Procedure  
thereon.

3. Thereafter unless the judge, or the prosecuting officer acting under subsection two of section eight hundred and twenty-six, is of opinion that it would not be in the interests of justice that the prisoner should be allowed to make a second election, the prisoner shall be proceeded against as if his said first election had not been made

Consent of  
prosecuting  
officer  
required to  
re-election.

4. If an indictment has been preferred against the prisoner the consent of the prosecuting officer shall be necessary to a re-election, and in such case the sheriff shall take no action upon being notified of the prisoner's desire to re-elect unless such consent is given in writing.

5. Except in the County of York, in the Province of Ontario, no prisoner shall have a right to re-elect later than thirty days before the day fixed for the next sittings of the court at which trials by jury can be had, unless the prisoner was committed for trial within forty days before the said date, in which event he must re-elect not later than ten days before the day fixed for the next sittings of the court at which trials by jury can be had. R.S., c. 146, s. 828; 1909, c. 9, s. 2; 1919, c. 46, s. 14; 1920, c. 43, s. 14.

Prisoner must re-elect 40 days before jury trials commence, or, if committed in that period, ten days before.

**829.** If one of two or more prisoners charged with the same offence demands a trial by jury, and the other or others consent to be tried by the judge without a jury, the judge, in his discretion, may remand all the said prisoners to gaol to await trial by a jury. R.S., c. 146, s. 829.

Persons jointly accused.

**830.** If under Part XVI or Part XVII, any person has been asked to elect whether he would be tried by the magistrate or justices, as the case may be, or before a jury, and he has elected to be tried by a jury, and if such election is stated in the warrant of committal for trial, the sheriff, prosecuting officer or judge shall not be required to take the proceedings directed by this Part.

Election under Parts XVI or XVII.

2. If such person, after his said election to be tried by a jury, has been committed for trial he may, at any time before the regular term or sittings of the court at which such trial by jury would take place, notify the sheriff that he desires to re-elect.

Re-election.

3. In such case it shall be the duty of the sheriff to proceed as directed by section eight hundred and twenty-six, and thereafter the person so committed shall be proceeded against as if his said election in the first instance had not been made. R.S., c. 146, s. 830.

Procedure in such case.

**831.** Proceedings under this Part commenced before any judge may, where such judge is for any reason unable to act, be continued before any other judge competent to try prisoners under this Part in the same judicial district, and such last mentioned judge shall have the same powers with respect to such proceedings as if such proceedings had been commenced before him, and may cause such portion of the proceedings to be repeated before him as he shall deem necessary. R.S., c. 146, s. 831.

Continuance of proceedings before another judge.

**832.** If, on the trial under Part XVI or Part XVII of any person charged with any offence triable under the provisions of this Part, the magistrate or justices decide not to try the same summarily, but commit such person for trial, such person may afterwards, with his own consent, be tried under the provisions of this Part. R.S., c. 146, s. 832.

Election after committal under Parts XVI or XVII.

Trial of  
accused.

Conviction.

Acquittal.

Discharge.

Form of  
record.

Charges  
preferred  
other than  
those for  
which  
accused is  
committed.

Consent of  
accused.

Subsequent  
proceedings  
thereon.

Powers of  
judge on  
trial.

Bail if  
trial by  
judge.

Before  
clerk of  
the court.

**833.** If the prisoner upon being arraigned under this Part consents as aforesaid and pleads not guilty the judge shall appoint an early day, or the same day, for his trial, and the prosecuting officer shall subpoena the witnesses named in the depositions, or such of them and such other witnesses as he thinks requisite to prove the charge, to attend at the time appointed for such trial, and the judge may proceed to try such prisoner, and if he be found guilty sentence as aforesaid shall be passed upon him.

2. If he be found not guilty the judge shall immediately discharge him from custody, so far as respects the charge in question

3. The prosecuting officer in such case shall draw up a record as nearly as may be in form 61. R.S., c. 146, s. 833; 1909, c. 9, s. 2.

**834.** The prosecuting officer may, with the consent of the judge, prefer against the prisoner a charge for any offence for which he may be tried under the provisions of this Part other than the charge for which he has been committed to jail for trial or bound over, although such charge does not appear or is not mentioned in the depositions upon which the prisoner was committed or is for a wholly distinct and unconnected offence: Provided that the prisoner shall not be tried under this Part or upon any such additional charge unless with his consent obtained as hereinbefore provided.

2. Any such charge may thereupon be dealt with, prosecuted and disposed of, and the prisoner may be remanded, held for trial or admitted to bail thereon, in all respects as if such charge had been the one upon which the prisoner was committed for trial. R.S., c. 146, s. 834; 1909, c. 9, s. 2.

**835.** The judge shall, in any case tried before him, have the same power as to acquitting or convicting, or convicting of any other offence than that charged, as a jury would have in case the prisoner were tried by a court having jurisdiction to try the offence in the ordinary way, and may render any verdict which might be rendered by a jury upon a trial at a sitting of any such court. R.S., c. 146, s. 835.

**836.** If the prisoner elects to be tried by a judge without the intervention of a jury the judge may, in his discretion, admit him to bail to appear for his trial, and extend the bail from time to time, in case the court be adjourned or there is any other reason therefor.

2. Such bail may be entered into and perfected before the clerk of the court.



3. Whenever a prisoner who has been admitted to bail pursuant to this section does not appear at the time mentioned in the recognizance or to which the court is adjourned, the judge may issue a warrant for his apprehension which may be executed in any part of Canada. R.S., c. 146, s. 836; 1909, c. 9, s. 2.

Warrant  
for arrest  
of prisoner  
out on  
bail.

**837.** If a prisoner elects to be tried by a jury the judge may, instead of remanding him to gaol, admit him to bail, to appear for trial at such time and place and before such court as is determined upon, and such bail may be entered into and perfected before the clerk of the court. R.S., c. 146, s. 837.

Bail if  
trial by  
jury.

**838.** The judge may adjourn any trial from time to time until finally terminated. R.S., c. 146, s. 838.

Adjourn-  
ment.

**839.** The judge shall have all the powers of amendment which are possessed by any court before which an indictment may be tried under this Act. R.S., c. 146, s. 839.

Powers of  
amendment.

**840.** Any recognizance taken under section six hundred and ninety-two, for the purpose of binding a prosecutor or a witness, shall, if the person committed for trial elects to be tried under the provisions of this Part, be obligatory on each of the persons bound thereby, as to all things therein mentioned with reference to the trial by the judge under this Part, as if such recognizance had been originally entered into for the doing of such things with reference to such trial: Provided that at least forty-eight hours' notice in writing shall be given, either personally or by leaving the same at the place of residence of the persons bound by such recognizance as therein described, to appear before the judge at the place where such trial is to be had. R.S., c. 146, s. 840.

Recogniz-  
ance to  
prosecute  
or give  
evidence.

Obligatory.

Notice.

**841.** Every witness, whether on behalf of the prisoner or against him, duly summoned or subpoenaed to attend and give evidence before the judge sitting on any such trial on the day appointed for the same shall be bound to attend and remain in attendance throughout the trial.

Witnesses  
to attend  
throughout  
trial.

2. If he fails so to attend he shall be held guilty of contempt of court, and may be proceeded against therefor accordingly. R.S., c. 146, s. 841.

Contempt.

**842.** Upon proof to the satisfaction of the judge of the service of a subpoena upon any witness who fails to attend before him as required by such subpoena, and upon such judge being satisfied that the presence of such witness

Warrant  
may issue  
for  
witness.

before him is indispensable to the ends of justice, he may, by his warrant, cause the said witness to be apprehended and forthwith brought before him to give evidence as required by such subpoena, and to answer for his disregard of the same.

Detention  
thereunder  
or release  
on recog-  
nizance.

2. Such witness may be detained on such warrant before the said judge, or in the common gaol, with a view to secure his presence as a witness; or, in the discretion of the judge, such witness may be released on recognizance with or without sureties, conditioned for his appearance to give evidence as therein mentioned, and to answer for his default in not attending upon the said subpoena, as for a contempt.

Contempt.

3. The judge may, in a summary manner, examine into and dispose of the charge of contempt against any such witness who, if found guilty thereof, may be fined or imprisoned, or both, such fine not to exceed one hundred dollars, and such imprisonment to be in the common gaol, with or without hard labour, and not to exceed the term of ninety days, and he may also be ordered to pay the costs incident to the execution of such warrant and of his detention in custody.

Penalty.

Forms.

4. Such warrant may be in form 62 and the conviction for contempt in form 13, and the same shall be authority to the persons and officers therein required to act to do as they are therein respectively directed. R.S., c. 146, s. 842.

## PART XIX.

### PROCEDURE BY INDICTMENT.

#### *General Provisions as to Indictments.*

Need not  
be on  
parchment.

**843.** It shall not be necessary for any indictment or any record or document relative to any criminal case to be written on parchment. R.S., c. 146, s. 843.

Statement  
of venue.

**844.** It shall not be necessary to state any venue in the body of any indictment, and the district, county or place named in the margin thereof shall be the venue for all the facts stated in the body of the indictment.

Local  
description.

2. If local description is required such local description shall be given in the body of the indictment. R.S., c. 146, s. 844.

Unneces-  
sary state-  
ment.  
Form.

**845.** It shall not be necessary to state in any indictment that the jurors present upon oath or affirmation.

2. It shall be sufficient if an indictment begins according to form 63, or to the like effect.

3. Any mistake in the heading shall upon being discovered be forthwith amended, and whether amended or not shall be immaterial. R.S., c. 146, s. 845.

*Special Cases.*

**846.** It shall not be necessary to allege, in any indictment against any person for wrongfully and wilfully pretending or alleging that he inclosed and sent, or caused to be inclosed and sent, in any post letter, any money, valuable security or chattel, or to prove on the trial, that the act was done with intent to defraud. R.S., c. 146, s. 846.

Mistake  
in heading  
immaterial.  
  
Indict-  
ment for  
pretending  
to send  
money, etc.,  
in letter.

**847.** Every indictment for treason, or for an offence against any of the sections, seventy-six to eighty-six inclusive, shall state overt acts, and no evidence shall be admitted of any overt act not stated unless it is otherwise relevant as tending to prove some overt act stated.

Indictment  
for  
treason, etc.

2. The power of amending indictments in this Part contained shall not extend to authorize the court to add to the overt acts stated in the indictment. R.S., c. 146, s. 847.

Amendment.

**848.** An indictment may be preferred against any person who steals any chattel let to be used by him in or with any house or lodging, or who steals any fixture so let to be used, in the same form as if the offender was not a tenant or lodger, and in either case the property may be laid in the owner or person letting to hire. R.S., c. 146, s. 848.

Indictment  
for  
stealing  
by tenant  
or lodger.

**849.** Every one charged with being an accessory after the fact to any offence, or with receiving any property knowing it to have been stolen, may be indicted, whether the principal offender or other party to the offence or person by whom such property was so obtained has or has not been indicted or convicted, or is or is not amenable to justice, and such accessory may be indicted either alone as for a substantive offence or jointly with such principal or other offender or person.

Access-  
ories  
after the  
fact and  
receivers.

2. When any property has been stolen any number of receivers at different times of such property, or of any part or parts thereof, may be charged with substantive offences in the same indictment, and may be tried together, whether the person by whom the property was so obtained is or is not indicted with them, or is or is not in custody or amenable to justice. R.S., c. 146, s. 849.

Joining  
receivers.

**850.** In any indictment against any person employed in the post office of Canada for any offence against this Act, or against any person for an offence committed in respect of any person so employed, it shall be sufficient to

Indictment  
in respect  
to post  
office  
employees.

allege that the offender, or such other person, was employed in the post office of Canada at the time of the commission of such offence, without stating further the nature or particulars of his employment. R.S., c. 146, s. 850.

Indictment  
charging  
previous  
convictions.

**851.** In any indictment for an indictable offence, committed after a previous conviction or convictions for any indictable offence or offences, or for any offence or offences, for which a greater punishment may be inflicted by reason of such previous conviction, it shall be sufficient, after charging the subsequent offence, to state that the offender was at a certain time and place, or at certain times and places, convicted of an indictable offence or offences, or of an offence or offences, as the case may be, and to state the substance and effect only, omitting the formal part of the indictment and conviction, or of the summary conviction, as the case may be, for the previous offence or offences, without otherwise describing the previous offence or offences. R.S., c. 146, s. 851.

*General Provisions as to Counts.*

Substance  
of offence  
stated.

**852.** Every count of an indictment shall contain, and shall be sufficient if it contains in substance, a statement that the accused has committed some indictable offence therein specified.

In popular  
language.

2. Such statement may be made in popular language without any technical averments or any allegations of matter not essential to be proved.

In the  
words of  
the enact-  
ment or  
otherwise.

3. Such statement may be in the words of the enactment describing the offence or declaring the matter charged to be an indictable offence, or in any words sufficient to give the accused notice of the offence with which he is charged.

Form.

4. Form 64 affords examples of the manner of stating offences. R.S., c. 146, s. 852.

Details of  
circum-  
stances.

**853.** Every count of an indictment shall contain so much detail of the circumstances of the alleged offence as is sufficient to give the accused reasonable information as to the act or omission to be proved against him, and to identify the transaction referred to: Provided that the absence or insufficiency of such details shall not vitiate the count.

Proviso.

Reference  
to section  
of statute.

2. A count may refer to any section or subsection of any statute creating the offence charged therein, and in estimating the sufficiency of such count the court shall have regard to such reference.

Single  
transaction.

3. Every count shall in general apply only to a single transaction. R.S., c. 146, s. 853.

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**854.**

R.S., 1927.

**854.** A count shall not be deemed objectionable on the ground that it charges in the alternative several different matters, acts or omissions which are stated in the alternative in the enactment describing any indictable offence or declaring the matters, acts or omissions charged to be an indictable offence, or on the ground that it is double or multifarious. R.S., c. 146, s. 854.

**855.** No count shall be deemed objectionable or insufficient for the reason only

- (a) that it does not contain the name of the person injured, or intended, or attempted to be injured;
- (b) that it does not state who is the owner of any property therein mentioned;
- (c) that it charges an intent to defraud without naming or describing the person whom it was intended to defraud;
- (d) that it does not set out any document which may be the subject of the charge;
- (e) that it does not set out the words used where words used are the subject of the charge;
- (f) that it does not specify the means by which the offence was committed;
- (g) that it does not name or describe with precision any person, place or thing;
- (h) that it does not in cases where the consent of any person, official or authority is required before a prosecution can be instituted, state that such consent has been obtained.

2. No provision contained in this Part as to matters which are not to render any count objectionable or insufficient shall be construed as restricting or limiting in any way the general provisions of sections eight hundred and fifty-two and eight hundred and fifty-three. R.S., c. 146, s. 855.

**856.** Any number of counts for any offences whatever may be joined in the same indictment, and shall be distinguished in the manner shown in form 63, or to the like effect: Provided that to a count charging murder no count charging any offence other than murder shall be joined. R.S., c. 146, s. 856.

**857.** When there are more counts than one in an indictment each count may be treated as a separate indictment.

2. If the court thinks it conducive to the ends of justice to do so, it may direct that the accused shall be tried upon any one or more of such counts separately: Provided that, unless there be special reasons, no order shall be made preventing

Offences may be charged in the alternative.

Count not objectionable or insufficient on ground of omission of certain statements.

Not to restrict general provisions of ss. 852 and 853.

Joinder of counts. Proviso.

Each count separate.

Separate trial.

Provision as to theft.

venting the trial at the same time of any number of distinct charges of theft, not exceeding three, alleged to have been committed within six months from the first to the last of such offences, whether against the same person or not. R.S., c. 146, s. 857.

Order for  
trial  
separately.

**858.** Any order for trial upon one or more counts of an indictment separately may be made either before or in the course of the trial, and if it is made in the course of the trial the jury shall be discharged from giving a verdict on the counts on which the trial is not to proceed.

Procedure  
on each  
count as  
if separate  
indictment.

2. The counts in the indictment as to which the jury are so discharged shall be proceeded upon in all respects as if they had been found in a separate indictment. R.S., c. 146, s. 858.

### *Particulars.*

May be  
ordered in  
case of  
perjury,  
etc.

**859.** The court may, if satisfied that it is necessary for a fair trial, order that the prosecutor shall furnish a particular

- (a) of what is relied on in support of any charge of perjury, the making of a false oath or of a false statement, fabricating evidence or subornation, or procuring the commission of such offences;
- (b) of any false pretenses or any fraud charged;
- (c) of any attempt or conspiracy by fraudulent means;
- (d) stating what passages in any book, pamphlet, newspaper or other printing or writing are relied on in support of a charge of selling or exhibiting an obscene book, pamphlet, newspaper, printing or writing;
- (e) further describing any document or words the subject of a charge;
- (f) further describing the means by which any offence was committed;
- (g) further describing any person, place or thing referred to in any indictment. R.S., c. 146, s. 859.

Copy to be  
furnished.

**860.** When any particular as aforesaid is delivered a copy shall be given without charge to the accused or his solicitor, and it shall be entered in the record, and the trial shall proceed in all respects as if the indictment had been amended in conformity with such particular.

Regard to  
depositions.

2. In determining whether a particular is required or not, and whether a defect in the indictment is material to the substantial justice of the case or not, the court may have regard to the depositions. R.S., c. 146, s. 860.

*Special Cases.*

**861.** No count for publishing a blasphemous, seditious, Libel, etc. obscene or defamatory libel, or for selling or exhibiting an obscene book, pamphlet, newspaper or other printed or written matter, shall be deemed insufficient on the ground that it does not set out the words thereof. Sufficiency.

2. A count for libel may charge that the matter published was written in a sense which would make the publishing criminal, specifying that sense without any prefatory averment showing how the matter was written in that sense. Specifying sense.

3. On the trial it shall be sufficient to prove that the matter published was criminal either with or without such innuendo. R.S., c. 146, s. 861. Proof necessary.

**862.** No count charging perjury, the making of a false oath or of a false statement, fabricating evidence or subornation, or procuring the commission of any of these offences, shall be deemed insufficient on the ground that it does not state the nature of the authority of the tribunal before which the oath or statement was taken or made, or the subject of the inquiry, or the words used or the evidence fabricated, or on the ground that it does not expressly negative the truth of the words used. R.S., c. 146, s. 862. Perjury. Statements unnecessary.

**863.** No count which charges any false pretense, or any fraud, or any attempt or conspiracy by fraudulent means, shall be deemed insufficient because it does not set out in detail in what the false pretenses or the fraud or fraudulent means consisted. R.S., c. 146, s. 863. False pretenses.

*How and in whom Property may be Laid.*

**864.** An indictment shall be deemed sufficient in the cases following:— Statements sufficient in certain cases.

- (a) If it be necessary to name the joint owners of any real or personal property, whether the same be partners, joint tenants, parceners, tenants in common, joint stock companies or trustees, and it is alleged that the property belongs to one who is named and another or others as the case may be;
- (b) If it is necessary for any purpose to mention such persons and one name only is named;
- (c) If the property in a turnpike road is laid in the trustees or commissioners thereof without specifying the names of such trustees or commissioners;
- (d) If the offence is committed in respect to any property in the occupation or under the management of any public officer or commissioner, and the property is alleged to belong to such officer or commissioner without naming him;

60

945

(e)

R.S., 1927.

(e) If for an offence under section three hundred and seventy-one the oyster bed, laying or fishery is described by name or otherwise, without stating the same to be in any particular county or place. R.S., c. 146, s. 864.

Property of  
body  
corporate.

**865.** All property, real and personal, whereof any body corporate has, by law, the management, control or custody, shall, for the purpose of any indictment or proceeding against any other person for any offence committed on or in respect thereof, be deemed to be the property of such body corporate. R.S., c. 146, s. 865.

Stealing  
ores or  
minerals.

**866.** In any indictment for any offence mentioned in section three hundred and seventy-eight and four hundred and twenty-four it shall be sufficient to lay the property in His Majesty, or in any person or corporation, in different counts in such indictment. R.S., c. 146, s. 866.

Indictment  
for offences  
in respect  
of postal  
cards, etc.

**867.** In any indictment for any offence committed in respect of any postal card, postage stamp or other stamp issued or prepared for issue by the authority of the Parliament of Canada, or of the legislature of any province of Canada, or by, or by the authority of, any corporate body for the payment of any fee, rate or duty whatsoever, the property therein may be laid in the person in whose possession, as the owner thereof, it was when the offence was committed, or in His Majesty if it was then unissued or in the possession of any officer or agent of the Government of Canada or of the province by authority of the legislature whereof it was issued or prepared for issue. R.S., c. 146, s. 867.

Theft by  
public  
servants.

**868.** In every case of theft or fraudulent application or disposition of any chattel, money or valuable security under section three hundred and fifty-nine, paragraph (c), or three hundred and ninety-one, the property in any such chattel, money or valuable security may, in any warrant by the justice before whom the offender is charged, and in the indictment preferred against such offender, be laid in His Majesty, or in the municipality, as the case may be. R.S., c. 146, s. 868.

Offences  
respecting  
letter bags,  
etc.

**869.** When an offence is committed in respect of a post letter bag, or a post letter, or other mailable matter, chattel, money or valuable security sent by post, the property of such post letter bag, post letter, or other mailable matter, chattel, money or valuable security may, in the indictment preferred against the offender, be laid in the Postmaster General; and it shall not be necessary to allege



in the indictment, or to prove upon the trial or otherwise, that the post letter bag, post letter or other mailable matter, chattel or valuable security was of any value.

2. The property of any chattel or thing used or employed in the service of the post office, or of moneys arising from duties of postage, shall, except in the cases aforesaid, be laid in His Majesty, if the same is the property of His Majesty, or if the loss thereof would be borne by His Majesty, and not by any person in his private capacity. May be laid in Crown.  
R.S., c. 146, s. 869.

*Preferring Indictment.*

**870.** Any judge of any court of record before whom any inquiry or trial is held, and which he is by law required or authorized to hold, may, if it appears to him that any person has been guilty of wilful and corrupt perjury in any evidence given, or in any affidavit, affirmation, declaration, deposition, examination, answer or other proceeding made or taken before him, direct such person to be prosecuted for such perjury, if there appears to such judge a reasonable cause for such prosecution. Order for by judge when perjury committed before him.

2. Such judge may commit such person until the next term, sitting or session of any court having power to try for perjury, in the jurisdiction within which such perjury was committed, or permit him to enter into a recognizance, with one or more sufficient sureties, conditioned for his appearance at such next term, sittings or session, and that he will then surrender and take his trial and not depart the court without leave. Commitment in such case.

3. Such judge may require any person he thinks fit, to enter into a recognizance conditioned to prosecute or give evidence against the person so directed to be prosecuted. Recognizance may be required.  
R.S., c. 146, s. 870.

**871.** Any one who is bound over to prosecute any person, whether committed for trial or not, may prefer a bill of indictment for the charge on which the accused has been committed, or in respect of which the prosecutor is so bound over, or for any charge founded upon the facts or evidence disclosed on the depositions taken before the justice. Any one bound over may prefer indictment.

2. The accused may at any time before he is given in charge to the jury apply to the court to quash any count in the indictment on the ground that it is not founded on such facts or evidence, and the court shall quash such count if satisfied that it is not so founded. Application to quash.

3. If at any time during the trial it appears to the court that any count is not so founded, and that injustice has been or is likely to be done to the accused in consequence Quashing during trial.

of such count remaining in the indictment, the court may then quash such count and discharge the jury from finding any verdict upon it. R.S., c. 146, s. 871.

Crown  
counsel may  
prefer  
indictment.

**872.** The counsel acting on behalf of the Crown at any court of criminal jurisdiction may prefer against any person who has been committed for trial at such court a bill of indictment for the charge on which the accused has been so committed or for any charge founded on the facts or evidence disclosed in the depositions taken before the justice. R.S., c. 146, s. 872.

Attorney  
General  
may prefer  
indictment.

**873.** The Attorney General or any one by his direction or any one with the written consent of a judge of any court of criminal jurisdiction or of the Attorney General, may prefer a bill of indictment for any offence before the grand jury of any court specified in such consent.

Any one  
by order.

2. Any person may prefer any bill of indictment before any court of criminal jurisdiction by order of such court.

Statement  
of consent.

3. It shall not be necessary to state such consent or order in the indictment and an objection to an indictment for want of such consent or order must be taken by motion to quash the indictment before the accused person is given in charge.

Not other-  
wise  
preferred.

4. Except as in this Part previously provided no bill of indictment shall be preferred in any province of Canada.

Procedure  
in  
Saskatche-  
wan and  
Alberta.

5. In the provinces of Manitoba, Saskatchewan and Alberta, it shall not be necessary to prefer any bill of indictment before a grand jury, but it shall be sufficient that the trial of any person charged with a criminal offence be commenced by a formal charge in writing setting forth as in an indictment the offence with which he is charged.

6. Such charge may be preferred by the Attorney General or an agent of the Attorney General, or by any person with the written consent of the judge of the court or of the Attorney General, or by order of the court. R.S., c. 146, s. 873; 1907, c. 8, s. 2; 1923, c. 41, s. 8.

#### *Proceedings before the Grand Jury.*

Evidence.

**874.** It shall not be necessary for any person to take an oath in open court in order to qualify him to give evidence before any grand jury. R.S., c. 146, s. 874.

Oath  
admin-  
istered by  
foreman.

**875.** The foreman of the grand jury or any member of the grand jury who may, for the time being, act on behalf of the foreman in the examination of witnesses, may administer an oath to every person who appears before such grand jury to give evidence in support of any bill of in-

dictment; and every such person may be sworn and examined upon oath by such grand jury touching the matters in question. R.S., c. 146, s. 875.

**876.** The name of every witness examined, or intended to be examined, shall be endorsed on the bill of indictment; and the foreman of the grand jury, or any member of the grand jury so acting for him, shall write his initials against the name of each witness sworn by him and examined touching such bill of indictment. R.S., c. 146, s. 876.

Names of  
witnesses  
endorsed  
on bill.

**877.** The name of every witness intended to be examined on any bill of indictment shall be submitted to the grand jury by the officer prosecuting on behalf of the Crown, and no others shall be examined by or before such grand jury unless upon the written order of the presiding judge. R.S., c. 146, s. 877.

Names of  
witnesses  
to be  
submitted  
to grand  
jury.

**878.** Nothing in this Act shall affect any fees by law payable to any officer of any court for swearing witnesses, but such fees shall be payable as if the witnesses had been sworn in open court. R.S., c. 146, s. 878.

Fees for  
swearing  
witnesses.

*Proceedings when Persons Indicted at Large.*

**879.** When any one against whom an indictment has been duly preferred and has been found, and who is then at large, does not appear to plead to such indictment, whether he is under recognizances to appear or not, the court before which the accused ought to have been tried may issue a warrant for his apprehension, which may be executed in any part of Canada.

Bench  
warrant.

2. The officer of the court at which said indictment is found, or, if the place of trial has been changed, the officer of the court before which the trial is to take place, shall, at any time after the time at which the accused ought to have appeared and pleaded, grant to the prosecutor, upon application made on his behalf and upon payment of twenty cents, a certificate of such indictment having been found which may be in form 65, or to the like effect. R.S., c. 146, s. 879.

Certificate  
of indictment  
being found.

**880.** Upon production of such certificate to any justice for the county or place in which the indictment was found, or in which the accused is or resides or is suspected to be or reside, such justice shall issue his warrant to apprehend him, and to cause him to be brought before such justice, or before any other justice for the same county or place, to be dealt with according to law.

Warrant  
by justice  
on  
certificate.

2. The warrant may be in form 66, or to the like effect. Form. R.S., c. 146, s. 880.

Committal  
of accused  
or  
admission  
to bail.

Proviso.

Warrant  
when  
accused  
in gaol.

Form.

**881.** If it is proved upon oath before such justice that any one apprehended and brought before him on such warrant is the person charged and named in such indictment, such justice shall, without further inquiry or examination, either commit him to prison by a warrant which may be in form 67, or to the like effect, or admit him to bail as provided in other cases: Provided that if it appears that the accused has without reasonable excuse broken his recognizance to appear he shall not in any case be bailable as of right. R.S., c. 146, s. 881.

**882.** If it is proved before the justice upon oath that any such accused person is at the time of such application and production of the said certificate as aforesaid confined in any prison for any other offence than that charged in the said indictment, such justice shall issue his warrant directed to the warden or gaoler of the prison in which such person is then confined as aforesaid, commanding him to detain him in his custody until by lawful authority he is removed therefrom.

2. Such warrant may be in form 68, or to the like effect. R.S., c. 146, s. 882.

#### *Place of Trial.*

Order for  
removal of  
prisoner to  
place of  
trial.

**883.** If after removal by the Governor in Council or the lieutenant-governor in council of any province of any person confined in any gaol to any other place for safe keeping or to any other gaol, a true bill for any indictable offence is returned by any grand jury of the county or district from which any such person is removed against any such person, the court into which such true bill is returned may make an order for the removal of such person from the place for safe keeping or gaol in which he is then confined to the gaol of the county or district in which such court is sitting for the purpose of his being tried in such county or district. R.S., c. 146, s. 883.

Change of  
venue.

Order.

**884.** Whenever it appears to the satisfaction of the court or judge hereinafter mentioned, that it is expedient to the ends of justice that the trial of any person charged with an indictable offence should be held in some district, county or place other than that in which the offence is supposed to have been committed, or would otherwise be triable, the court before which such person is or is liable to be indicted may, at any term or sitting thereof, and any judge who might hold or sit in such court may, at any other time, either before or after the presentation of a bill of indictment, order that the trial shall be proceeded with in some other district, county or place within the same province, named by the court or judge in such order.

2. Such order shall be made upon such conditions as to the payment of any additional expense thereby caused to the accused as the court or judge thinks proper to prescribe. Conditions as to expense.  
R.S., c. 146, s. 884.

**885.** Forthwith upon such order being made by the court or judge, the indictment, if any has been found against the prisoner, and all inquisitions, informations, depositions, recognizances and other documents relating to the prosecution against him, shall be transmitted by the officer having the custody thereof to the proper officer of the court at the place where the trial is to be had, and all proceedings in the case shall be had, or, if previously commenced, shall be continued in such district, county or place, as if the case had arisen or the offence had been committed therein. Transmission of record. R.S., c. 146, s. 885.

**886.** The order of the court, or of the judge, made as aforesaid shall be a sufficient warrant, justification and authority, to all sheriffs, gaolers and peace officers, for the removal, disposal and reception of the prisoner, in conformity with the terms of such order; and the sheriff may appoint and empower any constable to convey the prisoner to the gaol in the district, county or place in which the trial is ordered to be had. Order sufficient authority for removal of prisoner.

2. Every recognizance entered into for the prosecution of any person, and every recognizance, as well of any witnesses to give evidence, as of any person for any offence, shall, in case of any such order, be obligatory on each of the persons bound by such recognizance as to all things therein mentioned with reference to the trial at the place where such trial is so ordered to be had, in like manner as if such recognizance had been originally entered into for the doing of such things at such last mentioned place: Provided that notice in writing shall be given either personally or by leaving the same at the place of residence of the persons bound by such recognizance, as therein described, to appear before the court, at the place where such trial is ordered to be had. Recognizance binding. Notice to be given. R.S., c. 146, s. 886.

**887.** Whenever, in the province of Quebec, it has been decided by the competent authority that no jury is to be summoned at the appointed time in any district in the province within which a term of the Court of King's Bench holding criminal pleas should be then held, the Attorney General or his agent, or any person charged with an indictable offence whose trial should by law be held in the said district, may, in the manner hereinbefore provided, obtain an order that the trial be proceeded with in some other district within the said province named by the court or judge. Attorney General of Quebec given power to apply for change of venue as well as accused when no criminal terms in district where accused is.

Three preceding sections apply.

2. All provisions contained in the three last preceding sections shall apply to the case of a person so applying for and obtaining a change of venue as aforesaid. R.S., c. 146, s. 887; 1920, c. 43, s. 15.

Offence committed in one province not triable in another.

**888.** Nothing in this Act authorizes any court in one province of Canada to try any person for any offence committed entirely in another province: Provided that every proprietor, publisher, editor or other person charged with the publication in a newspaper of any defamatory libel, shall be dealt with, indicted, tried and punished in the province in which he resides, or in which such newspaper is printed. R.S., c. 146, s. 888.

Exception.

### *Amendments.*

In case of variance.

**889.** If on the trial of any indictment there appears to be a variance between the evidence given and the charge in any count in the indictment, either as found or as amended, or as it would have been if amended in conformity with any particular furnished as provided in section eight hundred and fifty-nine, the court before which the case is tried may, if of opinion that the accused has not been misled or prejudiced in his defence by such variance, amend the indictment or any count in it or any such particular so as to make it conformable with the proof.

Where indictment under wrong Act or contains defective statement.

2. If it appears that the indictment has been preferred under some other Act of Parliament instead of under this Act, or under this instead of under some other Act, or that there is in the indictment, or in any count in it, an omission to state or a defective statement of anything requisite to constitute the offence, or an omission to negative any exception which ought to have been negatived, but that the matter omitted is proved by the evidence, the court before which the trial takes place, if of opinion that the accused has not been misled or prejudiced in his defence by such error or omission, shall amend the indictment or count as may be necessary.

Trial proceeds.

3. The trial in either of these cases may then proceed in all respects as if the indictment or count had been originally framed as amended.

Adjournment of accused prejudiced.

4. If the court is of the opinion that the accused has been misled or prejudiced in his defence by any such variance, error, omission or defective statement, but that the effect of such misleading or prejudice might be removed by adjourning or postponing the trial, the court may in its discretion make the amendment and adjourn the trial to a future day in the same sittings, or discharge the jury and postpone the trial to the next sittings of the court, on such terms as it thinks just.

5. In determining whether the accused has been misled or prejudiced in his defence the court which has to determine the question shall consider the contents of the depositions, as well as the other circumstances of the case. How determined.

6. The propriety of making or refusing to make any such amendment shall be deemed a question for the court, and the decision of the court upon it may be reserved for the Court of Appeal, or may be brought before the Court of Appeal by appeal like any other question of law. R.S., c. 146, ss. 889 and 890. Question for the court.

**890.** In case an order for amendment as provided for in the last preceding section is made it shall be endorsed on the record; and all other rolls and proceedings connected therewith shall be amended accordingly by the proper officer and filed with the indictment, among the proper records of the court. R.S., c. 146, s. 891. Amendment to be endorsed on the record.

**891.** The accused may at any stage of the trial apply to the court to amend or divide any count of an indictment which charges in the alternative different matters, acts or omissions, stated in the alternative in the enactment describing the offence or declaring the matters, acts or omissions charged to be an indictable offence, or which is double or multifarious on the ground that it is so framed as to embarrass him in his defence. Application to amend or divide counts.

2. The court, if it is satisfied that the ends of justice require it, may order any such count to be amended or divided into two or more counts; and on such order being made such count shall be so divided or amended and thereupon a formal commencement may be inserted before each of the counts into which it is divided. R.S., c. 146, s. 892. Order for amendment or division.

**892.** Upon a prosecution for any offence under section three hundred and seventy-eight or four hundred and twenty-four, any variance when the property is laid in a person or corporation, between the statement in the indictment and the evidence adduced, may be amended at the trial. Amendment at the trial when property wrongly laid.

2. If no owner is proved, the indictment may be amended by laying the property in His Majesty. R.S., c. 146, s. 893. No owner proved.

**893.** Where, before trial, or at any stage of a trial, it appears to the Court that the indictment is defective, the Court shall make such order for the amendment of the indictment as the Court thinks necessary to meet the circumstances of the case, unless, having regard to the merits of the case, the required amendments cannot be made Amendment of defective indictment.

without injustice, and may make such order as to the payment of any costs incurred owing to the necessity for amendment as the Court thinks fit. 1925, c. 38, s. 22.

*Inspection and Copies of Documents.*

Right of  
accused to  
inspect  
depositions  
and have  
indictment  
read.

**894.** Every accused person shall be entitled at the time of his trial to inspect, without fee or reward, all depositions, or copies thereof, taken against him and returned into the court before which such trial is had, and to have the indictment on which he is to be tried read over to him if he so requires. R.S., c. 146, s. 894.

Copy of  
indictment.

**895.** Every person indicted for any offence shall, before being arraigned on the indictment, be entitled to a copy thereof on paying the clerk five cents per folio of one hundred words for the same, if the court is of opinion that the same can be made without delay to the trial, but not otherwise. R.S., c. 146, s. 895.

Copy of  
depositions.

**896.** Every person indicted shall be entitled to a copy of the depositions returned into court on payment of five cents per folio of one hundred words for the same.

When no  
delay  
caused.

2. If a copy is not demanded before the opening of the assizes, term, sittings or sessions, the person indicted shall be entitled to such copy if the court is of opinion that the same can be made without delay to the trial, but not otherwise.

Trial  
postponed.

3. The court may, if it sees fit, postpone the trial on account of such copy of the depositions not having been previously had by the person charged. R.S., c. 146, s. 896.

Documents  
delivered  
in case of  
treason,  
etc.

**897.** When any one is indicted for treason, or for being accessory after the fact to treason, there shall be delivered to him after the indictment has been found, and at least ten days before his arraignment,

(a) a copy of the indictment;

(b) a list of the witnesses to be produced on the trial to prove the indictment; and

(c) a copy of the panel of the jurors who are to try him returned by the sheriff.

Details.

2. The list of the witnesses and the copy of the panel of the jurors must mention the names, occupations, and places of abode of the said witnesses and jurors.

Witnesses  
to  
delivery

3. The documents aforesaid must all be given to the accused at the same time and in the presence of two witnesses.

Exception.

4. This section shall not apply to cases of treason by killing His Majesty, or to cases where the overt act alleged is any attempt to injure his person in any manner whatever, or to the offence of being accessory after the fact to any such treason. R.S., c. 146, s. 897.



*Objections, Pleas and Record.*

**898.** Every objection to any indictment for any defect apparent on the face thereof shall be taken by demurrer, or motion to quash the indictment, before the defendant has pleaded, and not afterwards, except by leave of the court or judge before whom the trial takes place, and every court before which any such objection is taken may, if it is thought necessary, cause the indictment to be forthwith amended in such particular, by some officer of the court or other person, and thereupon the trial shall proceed as if no such defect had appeared. Objections before plea. Amendments.

2. No motion in arrest of judgment shall be allowed for any defect in the indictment which might have been taken advantage of by demurrer, or amended under the authority of this Act. R.S., c. 146, s. 898. No motion in arrest of judgment.

**899.** No plea in abatement shall be allowed. No plea in abatement.

2. Any objection to the constitution of the grand jury may be taken by motion to the court, and the indictment shall be quashed if the court is of opinion both that such objection is well founded and that the accused has suffered or may suffer prejudice thereby, but not otherwise. R.S., c. 146, s. 899. Constitution of grand jury.

**900.** When the accused is called upon to plead he may plead either guilty or not guilty, or such special plea as is in this Part subsequently provided for. Pleas.

2. If the accused wilfully refuses to plead, or will not answer directly, the court may order the proper officer to enter a plea of not guilty. R.S., c. 146, s. 900. Refusal to plead.

**901.** No person prosecuted shall be entitled as of right to traverse or postpone the trial of any indictment preferred against him in any court, or to imparl, or to have time allowed him to plead or demur to any such indictment. Time to plead to indictment.

2. If the court before which any person is so indicted upon the application of such person or otherwise, is of opinion that he ought to be allowed a further time to plead or demur or to prepare for his defence, or otherwise, such court may grant such further time and may adjourn the trial of such person to a future time in the sittings of the court, or to the next or any subsequent session or sittings of the court, and upon such terms, as to bail or otherwise, as to the court seem meet, and may, in the case of adjournment to another session or sittings, respite the recognizances of the prosecutor and witnesses accordingly. Allowing further time to plead or demur. Bail.

3. In such cases the prosecutor and witnesses shall be bound to attend to prosecute and give evidence at such subsequent session or sittings without entering into any fresh recognizances for that purpose. R.S., c. 146, s. 901. Witnesses to attend.

Time to  
plead in  
Ontario.

**902.** If any person is prosecuted in the Supreme Court of Ontario for any indictable offence, by information there filed, or by indictment there found or removed into such court, and appears therein in term time in person, or, in case of a corporation, by attorney, to answer to such information or indictment, such defendant, upon being charged therewith, shall not imparl to a following term, but shall plead or demur thereto within four days from the time of his appearance; and in default of his pleading or demurring within four days as aforesaid judgment may be entered against such defendant for want of a plea. R.S., c. 146, s. 902.

When  
defendant  
appears by  
attorney.

**903.** If such defendant appears to such information or indictment by attorney, he shall not imparl to a following term, but a rule, requiring him to plead, may forthwith be given and served, and a plea to such information or indictment may be enforced, or judgment in default may be entered in the same manner as might have been done formerly in cases in which the defendant had appeared to such information or indictment by attorney in a previous term; but the court, or any judge thereof, upon sufficient cause shown for that purpose, may allow further time for such defendant to plead or demur to such information or indictment. R.S., c. 146, s. 903.

Allowing  
further  
time.

Delay in  
prosecution  
instituted  
by Attorney  
General of  
Ontario.

**904.** If any prosecution for an indictable offence, instituted by the Attorney General for Ontario in the said court, is not brought to trial within twelve months next after the plea of not guilty has been pleaded thereto, the court in which such prosecution is depending, upon application made on behalf of any defendant in such prosecution, of which application twenty days' previous notice shall be given to such Attorney General, may make an order authorizing such defendant to bring on the trial of such prosecution; and thereupon such defendant may bring on such trial accordingly unless a *nolle prosequi* is entered to such prosecution. R.S., c. 146, s. 904.

Remedy of  
accused.

Special  
pleas.

**905.** The following special pleas and no others may be pleaded, according to the provisions hereinafter contained, that is to say, a plea of *autrefois acquit*, a plea of *autrefois convict*, a plea of pardon, and such pleas in cases of defamatory libel as are hereinafter mentioned.

Not guilty.

2. All other grounds of defence may be relied on under the plea of not guilty. R.S., c. 146, s. 905.

Special  
pleas  
together.

**906.** The plea of *autrefois acquit*, *autrefois convict*, and pardon may be pleaded together, and if pleaded shall be disposed of before the accused is called on to plead further.

2. If every such plea is disposed of against the accused he shall be allowed to plead not guilty. Not guilty afterwards.

3. In any plea of *autrefois acquit* or *autrefois convict* it shall be sufficient for the accused to state that he has been lawfully acquitted or convicted, as the case may be, of the offence charged in the count or counts to which such plea is pleaded, indicating the time and place of such acquittal, or conviction. R.S. c. 146, s. 906. Statement sufficient.

**907.** On the trial of an issue on a plea of *autrefois acquit* or *autrefois convict* to any count or counts, if it appear that the matter on which the accused was given in charge on the former trial is the same in whole or in part as that on which it is proposed to give him in charge, and that he might on the former trial, if all proper amendments had been made which might then have been made, have been convicted of all the offences of which he may be convicted on the count or counts to which such plea is pleaded, the court shall give judgment that he be discharged from such count or counts. Issue on pleas of autrefois acquit and autrefois convict.

2. If it appear that the accused might on the former trial have been convicted of any offence of which he might be convicted on the count or counts to which such plea is pleaded, but that he may be convicted on any such count or counts of some offence or offences of which he could not have been convicted on the former trial, the court shall direct that he shall not be convicted on any such count or counts of any offence of which he might have been convicted on the former trial, but that he shall plead over as to the other offence or offences charged. R.S., c. 146, s. 907. What determines.

**908.** On the trial of an issue on a plea of *autrefois acquit* or *autrefois convict* the depositions transmitted to the court on the former trial, together with the judge's and official stenographer's notes if available, and the depositions transmitted to the court on the subsequent charge, shall be admissible in evidence to prove or disprove the identity of the charges. R.S., c. 146, s. 908. Evidence to prove identity of charges.

**909.** When an indictment charges substantially the same offence as that charged in the indictment on which the accused was given in charge on a former trial, but adds a statement of intention or circumstances of aggravation tending if proved to increase the punishment, the previous acquittal or conviction shall be a bar to such subsequent indictment. Indictment charging substantially same offence with circumstances of aggravation.

2. A previous conviction or acquittal on an indictment for murder shall be a bar to a second indictment for the same homicide charging it as manslaughter; and a previous Murder.

Man-  
slaughter.

vious conviction or acquittal on an indictment for manslaughter shall be a bar to a second indictment for the same homicide charging it as murder. R.S., c. 146, s. 909.

Plea of  
justifica-  
tion in  
case of  
libel.

**910.** Every one accused of publishing a defamatory libel may plead that the defamatory matter published by him was true, and that it was for the public benefit that the matters charged should be published in the manner and at the time when they were published.

In two  
senses or  
in either  
sense.

2. Such plea may justify the defamatory matter in the sense specified, if any, in the count, or in the sense which the defamatory matter bears without any such specification; or separate pleas justifying the defamatory matter in each sense may be pleaded separately to each as if two libels had been charged in separate counts.

Plea in  
writing.

3. Every such plea must be in writing, and must set forth the particular fact or facts by reason of which it was for the public good that such matters should be so published.

Reply.

4. The prosecutor may reply generally denying the truth thereof. R.S., c. 146, s. 910.

Plea of  
justifica-  
tion  
necessary  
to try  
truth.

**911.** The truth of the matters charged in an alleged libel shall in no case be inquired into without the plea of justification aforesaid unless the accused is put upon his trial upon any indictment or information charging him with publishing the libel knowing the same to be false, in which case evidence of the truth may be given in order to negative the allegation that the accused knew the libel to be false.

Not guilty  
in addition.

2. The accused may, in addition to such plea, plead not guilty and such pleas shall be inquired of together.

Effect of  
plea on  
punishment.

3. If, when such plea of justification is pleaded, the accused is convicted, the court may, in pronouncing sentence, consider whether his guilt is aggravated or mitigated by the plea. R.S., c. 146, s. 911.

Publication  
by order of  
a legis-  
lative body.

**912.** Every person against whom any criminal proceedings are commenced or prosecuted in any manner for or on account of or in respect of the publication of any report, paper, votes or proceedings, by such person or by his servant, by order or under the authority of any legislative council, legislative assembly or house of assembly, may submit to the court in which such proceedings are so commenced or prosecuted, or before any judge of the same, upon twenty-four hours' notice of his intention so to do, to the prosecutor in such proceedings, or to his attorney or solicitor, a certificate under the hand of the speaker or clerk of such legislative council, legislative assembly or house of assembly, as the case may be, verified by affidavit,

Certificate  
of speaker  
or clerk.

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stating

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stating that the report, paper, votes or proceedings, as the case may be, in respect whereof such criminal proceedings are commenced or prosecuted, was or were published by such person, or by his servant, by order or under the authority of the legislative council, legislative assembly or house of assembly, as the case may be.

2. Such court or judge shall, upon such certificate being so submitted, immediately stay such criminal proceedings, and the same shall thereupon be deemed finally ended, determined and superseded. R.S., c. 146, s. 912.

Stay of  
proceed-  
ings and  
dismissal.

**913.** In any criminal prosecution for or on account or in respect of the publication of any copy of such report, paper, votes or proceedings, the defendant may submit to the court or judge before which or whom such prosecution is pending a copy of such report, paper, votes or proceedings, verified by affidavit, and the court or judge shall immediately stay such criminal prosecution, and the same shall thereupon be deemed to be finally ended, determined and superseded. R.S., c. 146, s. 913.

Copy of  
report may  
be laid  
before  
the court.

Stay of  
proceed-  
ings and  
dismissal.

**914.** In making up the record of any conviction or acquittal on any indictment it shall be sufficient to copy the indictment with the plea pleaded thereto, without any formal caption or heading.

Form of  
record of  
conviction  
or  
acquittal.

2. The statement of the arraignment and the proceedings subsequent thereto shall be entered of record in the same manner as heretofore, subject to any such alterations in the forms of such entry as are, from time to time, prescribed by any rule or rules of the superior courts of criminal jurisdiction respectively.

Entry of  
record.

3. Such rules shall also apply to such inferior courts of criminal jurisdiction as are therein designated. R.S., c. 146, s. 914.

Inferior  
courts.

**915.** If it becomes necessary to draw up a formal record, in any case in which an amendment has been made, such record shall be drawn up in the form in which the indictment remained after the amendment, without taking any notice of the fact of such amendment having been made. R.S., c. 146, s. 915.

Form of  
record in  
case of  
amend-  
ment.

#### *Proceedings in Case of Corporations.*

**916.** Every corporation against which a bill of indictment is found at any court having criminal jurisdiction shall appear by attorney in the court in which such indictment is found and plead or demur thereto. R.S., c. 146, s. 916.

Corpora-  
tions may  
appear by  
attorney.

*Certiorari*  
not  
required.

**917.** No writ of *certiorari* shall be necessary to remove any such indictment into any superior court with the view of compelling the defendant to plead thereto; nor shall it be necessary to issue any writ of *distringas*, or other process, to compel the defendant to appear and plead to such indictment. R.S., c. 146, s. 917.

*Distringas*,  
not  
necessary.

Notice to  
corporation.

**918.** The prosecutor, when any such indictment is found against a corporation, or the clerk of the court when such indictment is founded on a presentment of the grand jury, may cause a notice thereof to be served on the mayor or chief officer of such corporation, or upon the clerk or secretary thereof, stating the nature and purport of such indictment, and that, unless such corporation appears and pleads thereto in two days after the service of such notice, a plea of not guilty will be entered thereto for the defendant by the court, and that the trial thereof will be proceeded with in like manner as if the said corporation had appeared and pleaded thereto. R.S., c. 146, s. 918.

Proceeding  
on default.

**919.** If such corporation does not appear in the court in which the indictment has been found, and plead or demur thereto within the time specified in the said notice, the judge presiding at such court may, on proof to him by affidavit of the due service of such notice, order the clerk or proper officer of the court to enter a plea of not guilty on behalf of such corporation, and such plea shall have the same force and effect as if such corporation had appeared by its attorney and pleaded such plea. R.S., c. 146, s. 919.

Trial may  
proceed in  
absence of  
defendant.

**920.** The court may, whether such corporation appears and pleads to the indictment, or a plea of not guilty is entered by order of the court, proceed with the trial of the indictment in the absence of the defendant in the same manner as if the corporation had appeared at the trial and defended the same; and in case of conviction, may award such judgment and take such other and subsequent proceedings to enforce the same as are applicable to convictions against corporations. R.S., c. 146, s. 920.

### *Juries.*

Qualifica-  
tion of  
juror.

**921.** Every person qualified and summoned as a grand or petit juror, according to the laws in force for the time being in any province of Canada shall be duly qualified to serve as such juror in criminal cases in that province.

Seven may  
find bill.

2. Seven grand jurors, instead of twelve, may find a true bill in any province where the panel of grand jurors is not more than thirteen. R.S., c. 146, s. 921.

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**922.**

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**922.** No alien shall be entitled to be tried by a jury *de medietate linguæ*, but shall be tried as if he was a natural-born subject. R.S., c. 146, s. 922. Jury *de medietate linguæ* abolished.

**923.** In those districts in the province of Quebec in which the sheriff is required by law to return a panel of petit jurors composed, one-half of persons speaking the English language, and one-half of persons speaking the French language, he shall in his return specify separately those jurors whom he returns as speaking the English language, and those whom he returns as speaking the French language respectively; and the names of the jurors so summoned shall be called alternately from such lists. Mixed juries in Quebec.

2. In any district, the prisoner may upon arraignment move that he be tried by a jury entirely composed of jurors speaking the English language, or entirely composed of jurors speaking the French language. Juries in Quebec.

3. Upon such motion the judge may order the sheriff to summon a sufficient panel of jurors speaking the English or the French language, unless in his discretion it appears that the ends of justice are better served by impanelling a mixed jury. R.S., c. 146, s. 923; 1925, c. 38, s. 23. Panels.

**924.** Whenever any person who is arraigned before the Court of King's Bench for Manitoba demands a jury composed, for the one-half at least, of persons skilled in the language of the defence, if such language is either English or French, he shall be tried by a jury composed for the one-half at least of the persons whose names stand first in succession upon the general panel and who, on appearing and not being lawfully challenged, are found, in the judgment of the court, to be skilled in the language of the defence. Mixed juries in Manitoba.

2. Whenever, from the number of challenges or any other cause, there is in any such case a deficiency of persons skilled in the language of the defence the court shall fix another day for the trial of such case, and the sheriff shall supply the deficiency by summoning, for the day so fixed, such additional number of jurors skilled in the language of the defence as the court orders, and as are found inscribed next in succession on the list of petit jurors. R.S., c. 146, s. 924. When panel exhausted, additional jurors.

**925.** Either the accused or the prosecutor may challenge the array on the ground of partiality, fraud, or wilful misconduct on the part of the sheriff or his deputies by whom the panel was returned, but on no other ground. Challenging the array.

2. Such challenge shall be by way of objection in writing, and shall state that the person returning the panel was partial, or was fraudulent, or wilfully misconducted himself, as the case may be. In writing.

Objection  
in writing.

3. Such objection may be in form 69, or to the like effect. R.S., c. 146, s. 925.

Trial of  
ground of  
challenge.

**926.** If partiality, fraud or wilful misconduct, as the case may be, is denied, the court shall appoint any two indifferent persons to try whether the alleged ground of challenge is true or not.

New panel  
when.

2. If the triers find that the alleged ground of challenge is true in fact, or if the party who has not challenged the array admits that the ground of challenge is true in fact, the court shall direct a new panel to be returned. R.S., c. 146, s. 926.

Names of  
jurors on  
cards.

**927.** The name of each juror on a panel returned, with his number on the panel and the place of his abode, shall be written on a distinct piece of card, and all such pieces of card shall be as nearly as may be of equal size.

Put by  
officers  
in box.

2. The cards shall be delivered to the officer of the court by the sheriff or other officer returning the panel, and shall, under the direction and care of the officer of the court, be put together in a box to be provided for that purpose and shall be shaken together.

To be  
drawn by  
officer of  
the court.

3. If the array is not challenged or if the triers find against the challenge, the officer of the court shall in open court draw out the said cards, one after another, and shall call out the name and number upon each such card as it is drawn, until such a number of persons have answered to their names as in the opinion of the court will probably be sufficient to provide a full jury after allowing for challenges of jurors and directions to stand by.

Each juror  
to be  
sworn.

4. The officer of the court shall then proceed to swear the jury, each juror being called to swear in the order in which his name is so drawn, until, after subtracting all challenges allowed and jurors directed to stand by, twelve jurors are sworn.

Further  
names to  
be drawn  
when.

5. If the number so answering is not sufficient to provide a full jury such officer shall proceed to draw further names from the box, and call the same in manner aforesaid, until, after challenges allowed and directions to stand by, twelve jurors are sworn. R.S., c. 146, s. 927.

Calling the  
jurors who  
have stood  
by.

**928.** If, by challenges and directions to stand by, the panel is exhausted without leaving a sufficient number to form a jury, those who have been directed to stand by shall be again called in the order in which they were drawn, and shall be sworn, unless challenged by the accused, or unless the prosecutor challenges them or shows cause why they should not be sworn: Provided that if before any such juror is sworn other jurymen in the panel become available the prosecutor may require the names of such jurymen to

Proviso.

Other  
jurors  
becoming  
available.

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be put into and drawn from the box in the manner hereinbefore prescribed, and such jurors shall be sworn, challenged or ordered to stand by, as the case may be, before the jurors originally ordered to stand by are again called. R.S., c. 146, s. 928; 1919, c. 46, s. 15.

**929.** The twelve men who in manner aforesaid are ultimately drawn and sworn shall be the jury to try the issues on the indictment, and the names of the men so drawn and sworn shall be kept apart by themselves until such jury give in their verdict or until they are discharged; and then the names shall be returned to the box, there to be kept with the other names remaining at that time undrawn. and so *toties quoties* as long as any issue remains to be tried.

Who shall be the jury.

Return of names to the box.

2. If the prosecutor and accused do not object thereto, the court may try any issue with the same jury that has previously tried or been drawn to try any other issue, without their names being returned to the box and redrawn, or if the parties, or either of them, object to some one or more of the jurors forming such jury, or the court excuses any one or more of them, then the court may order such persons to withdraw, and may direct the requisite number of names to make up a complete jury to be drawn, and the persons whose names are so drawn shall be sworn.

Same jury may try another issue by consent.

3. An omission to follow the directions of this or the two last preceding sections shall not affect the validity of the proceedings. R.S., c. 146, s. 929.

Sections directory.

**930.** If the ground of challenge is that the jurors' names do not appear on the panel, the issue shall be tried by the court on the *voir dire* by the inspection of the panel, and such other evidence as the court thinks fit to receive. R.S., c. 146, s. 930.

Ground of challenge, names not on panel, tried upon *voir dire*.

**931.** If the ground of challenge be other than as last aforesaid, the two jurors last sworn, or if no jurors have then been sworn, then two persons present whom the court may appoint for that purpose shall be sworn to try whether the juror objected to stands indifferent between the King and the accused, or has been convicted as hereinafter specified or is an alien, as the case may be.

Trial of challenge upon other grounds.

2. If the court or the triers find against the challenge the juror shall be sworn.

Juror sworn.

3. If they find for the challenge he shall not be sworn.

Not sworn.

4. If, after what the court considers a reasonable time, the triers are unable to agree, the court may discharge them from giving a verdict, and may direct other persons to be sworn in their place. R.S., c. 146, s. 931.

If triers do not agree.

Peremptory  
challenges  
by accused.

**932.** Every one indicted for treason or for any offence punishable with death is entitled to challenge twenty jurors peremptorily.

Twelve in  
certain  
cases.

2. Every one indicted for any offence other than treason, or an offence punishable with death, for which he may be sentenced to imprisonment for more than five years, is entitled to challenge twelve jurors peremptorily.

Four in  
other  
cases.

3. Every one indicted for any other offence is entitled to challenge four jurors peremptorily. R.S., c. 146, s. 932.

By Crown.

**933.** The Crown shall have power to challenge four jurors peremptorily, and may direct any number of jurors not peremptorily challenged by the accused to stand by until all the jurors have been called who are available for the purpose of trying that indictment.

Limiting  
number of  
jurors  
Crown may  
direct to  
stand by.  
Accused  
challenges  
first if  
required.

2. The Crown may not direct any number of jurors to stand by in excess of forty-eight, unless the judge presiding at the trial, upon special cause shown, so orders.

3. The accused may be called upon to declare whether he challenges any jurors peremptorily or otherwise, before the prosecutor is called upon to declare whether he requires such juror to stand by, or challenges him either for cause or peremptorily. R.S., c. 146, s. 933; 1917, c. 13, s. 1.

No right  
in libel to  
stand aside  
by the  
Crown.

**934.** The right of the Crown to cause any juror to stand aside until the panel has been gone through shall not be exercised on the trial of any indictment or information by a private prosecutor for the publication of a defamatory libel. R.S., c. 146, s. 934.

Challenges  
for cause.

**935.** Every prosecutor and every accused person is entitled to any number of challenges on the ground

(a) that any juror's name does not appear in the panel: Provided that no misnomer or misdescription shall be a ground of challenge if it appears to the court that the description given in the panel sufficiently designates the person referred to;

(b) that any juror is not indifferent between the King and the accused;

(c) that any juror has been convicted of any offence for which he was sentenced to death or to any term of imprisonment with hard labour or exceeding twelve months; or

(d) that any juror is an alien.

No other  
ground.

2. No other ground of challenge for cause than those mentioned in this section shall be allowed. R.S., c. 146, s. 935.

Challenge  
in writing.

**936.** If a challenge on any of the grounds aforesaid is made, the court may, in its discretion, require the party challenging to put his challenge in writing.

2. The challenge may be in form 70, or to the like effect. Form.

3. The other party may deny that the ground of challenge is true. Denial. R.S., c. 146, s. 936.

**937.** Whenever a person accused of an offence for which he would be entitled to twenty or twelve peremptory challenges as hereinbefore provided, elects to be tried by a jury composed one-half of persons skilled in the language of the defence, under sections nine hundred and twenty-three or nine hundred and twenty-four, the number of peremptory challenges to which he is entitled shall be divided, so that he shall only have the right to challenge one-half of such number from among the English-speaking jurors, and one-half from among the French-speaking jurors. Peremptory challenge in case of mixed jury. R.S., c. 146, s. 937.

**938.** If several accused persons are jointly indicted and it is proposed to try them together, they or any of them may either join in their challenges, in which case the persons who so join shall have only as many challenges as a single person would be entitled to, or each may make his challenge in the same manner as if he were intended to be tried alone. Accused persons joining or severing in their challenges. R.S., c. 146, s. 938.

**939.** Whenever after the proceedings hereinbefore provided for the panel has been exhausted, and a complete jury cannot be had by reason thereof, then, upon request made on behalf of the Crown, the court may order the sheriff or other proper officer forthwith to summon such number of persons, whether qualified jurors or not, as the court deems necessary and directs in order to make a full jury; and such jurors may, if necessary, be summoned by word of mouth. Panel exhausted, further jurors summoned.

2. The names of the persons so summoned shall be added to the general panel, for the purposes of the trial, and the same proceedings shall be taken as to calling and challenging such persons and as to directing them to stand by as are hereinbefore provided for with respect to the persons named in the original panel. Names added to the panel. R.S., c. 146, s. 939.

#### *Arraignment and Trial.*

**940.** No one shall be tried upon any coroner's inquisition. Coroner's inquisition. R.S. c. 146, s. 940.

**941.** If any person against whom any indictment is found is at the time confined for some other cause in the prison belonging to the jurisdiction of the court by which he is to be tried, the court may by order in writing, without a writ of *habeas corpus*, direct the warden or gaoler

965

Bringing prisoner up for arraignment.  
of  
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of the prison or sheriff or other person having the custody of the prisoner to bring up the body of such person as often as may be required for the purposes of the trial, and such warden, gaoler, sheriff or other person shall obey such order. R.S. c. 146, s 941.

Right to  
full defence.

**942.** Every person tried for any indictable offence shall be admitted, after the close of the case for the prosecution, to make full answer and defence thereto by counsel learned in the law. R.S. c. 146, s. 942.

Presence of  
the accused  
at trial.

**943.** Every accused person shall be entitled to be present in court during the whole of his trial unless he misconducts himself by so interrupting the proceedings as to render their continuance in his presence impracticable.

Permission  
to be out  
of court.

2. The court may permit the accused to be out of court during the whole or any part of any trial on such terms as it thinks proper. R.S., c. 146, s. 943.

Prosecu-  
tor's right  
to sum up.

**944.** If an accused person, or any one of several accused persons being tried together, is defended by counsel, such counsel shall, at the end of the case for the prosecution, declare whether he intends to adduce evidence or not on behalf of the accused person for whom he appears; and if he does not thereupon announce his intention to adduce evidence, the counsel for the prosecution may address the jury by way of summing up.

Accused  
may open,  
close case  
and call  
witnesses.

2. Upon every trial for an indictable offence, the counsel for the accused, or the accused if he is not defended by counsel, shall be allowed, if he thinks fit, to open the case for the defence, and after the conclusion of such opening to examine such witnesses as he thinks fit, and when all the evidence is concluded to sum up the evidence.

Accused's  
right of  
reply.

3. If no witnesses are examined for the defence the counsel for the accused, or the accused in case he is not defended by counsel, shall have the privilege of addressing the jury last, otherwise such right shall belong to the counsel for the prosecution: Provided, that the right of reply shall be always allowed to the Attorney General or Solicitor General, or to any counsel acting on behalf of either of them. R.S. c. 146, s. 944.

Crown's  
right to  
reply.

Continuous  
trial.

**945.** The trial shall proceed continuously subject to the power of the court to adjourn it.

Adjourn-  
ment.

2. The court may adjourn the trial from day to day, and if in its opinion the ends of justice so require, to any other day in the same sittings.

Jury kept  
together.

3. Upon every adjournment of a trial under this section, or under any other section, the court may, if it thinks fit, direct that during the adjournment the jury shall be kept

together, and proper provision made for preventing the jury from holding communication with any one on the subject of the trial.

4. Such direction shall be given in all cases in which the accused may upon conviction be sentenced to death.

5. In other cases, if no such direction is given, the jury shall be permitted to separate.

6. No formal adjournment of the court shall hereafter be required, and no entry thereof in the Crown book shall be necessary. R.S., c. 146, s. 945.

**946.** Jurors, after having been sworn, shall be allowed at any time before giving their verdict the use of fire and light when out of court, and shall also be allowed reasonable refreshment. R.S., c. 146, s. 946.

**947.** In any criminal proceeding commenced or prosecuted for publishing any extract from, or abstract of, any paper containing defamatory matter, which has been published by order or under the authority of the Senate, House of Commons or any legislative council, legislative assembly or house of assembly, such paper may be given in evidence, and it may be shown that such extract or abstract was published in good faith and without ill-will to the person defamed, and if such is the opinion of the jury, a verdict of not guilty shall be entered for the defendant. R.S., c. 146, s. 947.

**948.** In the case of any indictment under section three hundred and ten (b), (c) and (d), no averment or proof of the method in which the sexual relationship charged was entered into, agreed to or consented to, shall be necessary in any such indictment, or upon the trial of the person thereby charged; nor shall it be necessary upon such trial to prove carnal connection had or intended to be had between the persons implicated. R.S., c. 146, s. 948.

**949.** When the complete commission of an offence charged is not proved but the evidence establishes an attempt to commit the offence, the accused may be convicted of such attempt and punished accordingly. R.S., c. 146, s. 949.

**950.** When an attempt to commit an offence is charged but the evidence establishes the commission of the full offence, the accused shall not be entitled to be acquitted, but the jury may convict him of the attempt, unless the court before which such trial is had thinks fit, in its discretion, to discharge the jury from giving any verdict upon such trial, and to direct such person to be indicted for the complete offence.

*Res  
judicata.*

2. After a conviction for such attempt the accused shall not be liable to be tried again for the offence which he was charged with attempting to commit. R.S., c. 146, s. 950.

Offence  
charged,  
part only  
proved.

**951.** Every count shall be deemed divisible; and if the commission of the offence charged, as described in the enactment creating the offence or as charged in the count, includes the commission of any other offence, the person accused may be convicted of any offence so included which is proved, although the whole offence charged is not proved; or he may be convicted of an attempt to commit any offence so included.

Conviction  
for man-  
slaughter  
on charge  
of murder.

2. On a count charging murder, if the evidence proves manslaughter but does not prove murder, the jury may find the accused not guilty of murder but guilty of manslaughter, but shall not on that count find the accused guilty of any other offence. R.S., c. 146, s. 951.

On indict-  
ment for  
murder,  
conviction  
may be of  
conceal-  
ment of  
birth.

**952.** If any person tried for the murder of any child is acquitted thereof, the jury by whose verdict such person is acquitted may find, in case it so appears in evidence, that the child had recently been born, and that such person did, by some secret disposition of such child or of the dead body of such child, endeavour to conceal the birth thereof, and thereupon the court may pass such sentence as it might have passed if such person had been convicted upon an indictment for the concealment of birth. R.S., c. 146, s. 952.

Charge for  
stealing  
conviction  
for  
fraudulently  
dealing  
with cattle.

**953.** When an offence under section three hundred and sixty-nine is charged and not proved, but the evidence establishes an offence under section three hundred and ninety-two the accused may be convicted of such latter offence and punished accordingly. R.S., c. 146, s. 953.

Trial of  
joint  
receivers.

**954.** If, upon the trial of two or more persons indicted for jointly receiving any property, it is proved that one or more of such persons separately received any part or parts of such property, the jury may convict, upon such indictment, such of the said persons as are proved to have received any part or parts of such property. R.S., c. 146, s. 954.

Trial for  
coinage  
offences.

**955.** Upon the trial of any person accused of any offence respecting the currency or coin, or against the provisions of Part IX relating to coin, no difference in the date or year, or in any legend marked upon the lawful coin described in the indictment, and the date or year or legend marked upon the false coin counterfeited to resemble or pass for such lawful coin, or upon any die, plate, press, tool

tool or instrument used, constructed, devised, adapted or designed for the purpose of counterfeiting or imitating any such lawful coin, shall be considered a just or lawful cause or reason for acquitting any such person of such offence; and it shall, in any case, be sufficient to prove such general resemblance to the lawful coin as will show an intention that the counterfeit should pass for it. R.S., c. 146, s. 955.

General  
resemblance  
sufficient.

**956.** On the trial of any indictment or information for the making or publishing of any defamatory libel, on the plea of not guilty pleaded, the jury sworn to try the issue may give a general verdict of guilty or not guilty upon the whole matter put in issue upon such indictment or information, and shall not be required or directed, by the court or judge before whom such indictment or information is tried, to find the defendant guilty merely on the proof of publication by such defendant of the paper charged to be a defamatory libel, and of the sense ascribed to the same in such indictment or information; but the court or judge before whom such trial is had shall, according to the discretion of such court or judge, give the opinion and direction of such court or judge to the jury on the matter in issue as in other criminal cases; and the jury may, on such issue, find a special verdict if they think fit so to do.

Verdict in  
cases of  
libel may  
be guilty  
or not  
guilty  
generally.

Or special.

2. The defendant, if found guilty, may move in arrest of judgment on such ground and in such manner as heretofore. R.S., c. 146, s. 956; 1908, c. 18, s. 12.

Arrest of  
judgment.

**957.** If any false or counterfeit coin is produced on any trial for any offence against the provisions of Part IX relating to coin, the court shall order the same to be cut in pieces in open court, or in the presence of a justice, and then to be delivered to or for the lawful owner thereof, if such owner claims the same. R.S., c. 146, s. 957.

Destroying  
counter-  
feit coin.

**958.** On the trial of any person for an offence against this Act, the court may, if it appears expedient for the ends of justice, at any time after the jurors have been sworn to try the case and before they give their verdict, direct that the jury shall have a view of any place, thing or person, and shall give directions as to the manner in which, and the persons by whom, the place, thing or person shall be shown to such jurors, and may for that purpose adjourn the trial, and the costs occasioned thereby shall be in the discretion of the court.

View.

2. When such view is ordered, the court shall give such directions as seem requisite for the purpose of preventing undue communication with such jurors: Provided that no breach of any such directions shall affect the validity of the proceedings. R.S., c. 146, s. 958.

Directions  
preventing  
communica-  
tion.

Directory.

Jury  
consider  
verdict.

No com-  
munication  
with them.

Directory.

Empanel-  
ling new  
jury.

Jury  
discharged  
if unable  
to agree.

Review.

Proceeding  
on Sunday,  
etc., not  
invalid.

Stay by  
Attorney  
General  
after  
indictment.

Delegation  
of power.

Previous  
offence  
charged

Arraign-  
ment on  
subsequent  
offence.

**959.** If the jury retire to consider their verdict they shall be kept under the charge of an officer of the court in some private place, and no person other than the officer of the court who has charge of them shall be permitted to speak or to communicate in any way with any of the jury without the leave of the court.

2. Disobedience to the directions of this section shall not affect the validity of the proceedings.

3. If such disobedience is discovered before the verdict of the jury is returned the court, if it is of opinion that such disobedience might lead to a miscarriage of justice, may discharge the jury and direct a new jury to be sworn or empanelled during the sitting of the court, or postpone the trial on such terms as justice may require. R.S., c. 146, s. 959.

**960.** If the court is satisfied that the jury are unable to agree upon their verdict, and that further detention would be useless, it may in its discretion discharge them and direct a new jury to be empanelled during the sittings of the court, or may postpone the trial on such terms as justice may require.

2. It shall not be lawful for any court to review the exercise of this discretion. R.S., c. 146, s. 960.

**961.** The taking of the verdict of the jury or other proceeding of the court shall not be invalid by reason of its happening on Sunday or on any other holiday. R.S., c. 146, s. 961.

**962.** The Attorney General may, at any time after an indictment has been found against any person for any offence and before judgment is given thereon, direct the officer of the court to make on the record an entry that the proceedings are stayed by his direction, and on such entry being made all such proceedings shall be stayed accordingly.

2. The Attorney General may delegate such power in any particular court to any counsel nominated by him. R.S., c. 146, s. 962.

**963.** Upon any indictment for committing any offence after a previous conviction or convictions, the offender shall, in the first instance, be arraigned upon so much only of the indictment as charges the subsequent offence, and if he pleads not guilty, or if the court orders a plea of not guilty to be entered on his behalf, the jury shall be charged, in the first instance, to inquire concerning such subsequent offence only; and if the jury finds him guilty, or if, on

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arraignment

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arraignment he pleads guilty, he shall then, and not before, be asked whether he was so previously convicted as alleged in the indictment.

2. If he answers that he was so previously convicted, the court may proceed to sentence him accordingly, but if he denies that he was so previously convicted, or stands mute of malice, or will not answer directly to such question, the jury shall then be charged to inquire concerning such previous conviction or convictions, and in such case it shall not be necessary to swear the jury again, but the oath already taken by them shall, for all purposes, be deemed to extend to such last mentioned inquiry. R.S., c. 146, s. 963. Trial as to previous offence.

**964.** If upon the trial of any person for any such subsequent offence, such person gives evidence of his good character, the prosecutor may, in answer thereto, give evidence of the conviction of such person for the previous offence or offences, before such verdict of guilty is returned, and the jury shall inquire concerning such previous conviction or convictions at the same time that they inquire concerning such subsequent offence. R.S., c. 146, s. 964. Evidence of character in such case.

**965.** Nothing in this Act shall alter, abridge or affect any power or authority which any court or judge has hitherto had, or any existing practice or form in regard to trials by jury, jury process, juries or jurors, except in cases where such power or authority, practice or form is expressly altered by or is inconsistent with the provisions of this Act. R.S., c. 146, s. 965. Saving of power of court.

#### *Defence of Insanity.*

**966.** Whenever evidence is given upon the trial of any person charged with an indictable offence, that such person was insane at the time of the commission of such offence, the jury, if they acquit such person, shall be required to find, specially, whether such person was insane at the time of the commission of such offence, and to declare whether he is acquitted by it on account of such insanity. Insanity of accused at time of offence.

2. If the jury finds that such person was insane at the time of committing such offence, the court before which such trial is had shall order such person to be kept in strict custody in such place and in such manner as to the court seems fit, until the pleasure of the lieutenant governor is known. R.S. c. 146, s. 966. Custody after finding by jury.

**967.** If at any time after the indictment is found, and before the verdict is given, it appears to the court that there is sufficient reason to doubt whether the accused is then, At time of arraignment of trial.

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on

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|                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Issue.                                                       | on account of insanity, capable of conducting his defence, the court may direct that an issue shall be tried whether the accused is or is not then, on account of insanity, unfit to take his trial.                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Trial of issue.                                              | 2. If such issue is directed before the accused is given in charge to a jury for trial on the indictment, such issue shall be tried by any twelve jurors.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| As an additional issue.                                      | 3. If such issue is directed after the accused has been given in charge to a jury for trial on the indictment, such jury shall be sworn to try this issue in addition to that on which they are already sworn.                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| If sane trial proceeds.                                      | 4. If the verdict on this issue is that the accused is not then unfit to take his trial, the arraignment or the trial shall proceed as if no such issue had been directed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| If insane jury discharged.                                   | 5. If the verdict is that he is unfit on account of insanity, the court shall order the accused to be kept in custody till the pleasure of the lieutenant governor of the province shall be known, and any plea pleaded shall be set aside and the jury shall be discharged.                                                                                                                                                                                                                                                                                                                                                                                  |
| Subsequent trial.                                            | 6. No such proceeding shall prevent the accused being afterwards tried on such indictment. R.S. c. 146, s. 967.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Insanity of person to be discharged for want of prosecution. | <b>968.</b> If any person charged with an indictable offence is brought before any court before which such person might be tried for such offence to be discharged for want of prosecution, and such person appears to be insane, the court shall order a jury to be empanelled to try the sanity of such person, and if the jury so empanelled finds him insane, the court shall order such person to be kept in strict custody, in such place and in such manner as to the court seems fit, until the pleasure of the lieutenant governor is known. R.S. c. 146, s. 968.                                                                                    |
| Custody of insane persons.                                   | <b>969.</b> In all cases of insanity so found, the lieutenant governor may make an order for the safe custody of the person so found to be insane, in such place and in such manner as to him seems fit. R.S. c. 146, s. 969.                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Insanity of person imprisoned.                               | <b>970.</b> The lieutenant governor, upon such evidence of the insanity of any person imprisoned in any prison other than a penitentiary for an offence, or imprisoned for safe custody charged with an offence, or imprisoned for not finding bail for good behaviour or to keep the peace, as the lieutenant governor considers sufficient, may order the removal of such insane person to a place of safe keeping; and such person shall remain there, or in such other place of safe keeping as the lieutenant governor from time to time orders, until his complete or partial recovery is certified to the satisfaction of the lieutenant governor, who |
| Return to imprisonment when sane.                            | may                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

may then order such insane person back to imprisonment, if then liable thereto, or otherwise to be discharged. R.S. c. 146, s. 970.

*Witnesses and Attendance.*

**971.** Every witness duly subpoenaed to attend and give evidence at any criminal trial before any court of criminal jurisdiction shall be bound to attend and remain in attendance throughout the trial. R.S. c. 146, s. 971. Attendance of witnesses.

**972.** Upon proof to the satisfaction of the judge of the service of the subpoena upon any witness who fails to attend or remain in attendance, or upon its appearing that any witness at the preliminary examination has entered into a recognizance to appear at the trial, and has failed so to appear, and that the presence of such witness is material to the ends of justice, the judge may, by his warrant, cause such witness to be apprehended and forthwith brought before him to give evidence and to answer for his disregard of the subpoena. Compelling attendance of witnesses.

2. Such witness may be detained on such warrant before the judge or in the common gaol, with a view to secure his presence as a witness, or, in the discretion of the judge, he may be released on a recognizance, with or without sureties, conditioned for his appearance to give evidence and to answer for his default in not attending or not remaining in attendance. Warrant.

3. The judge may, in a summary manner, examine into and dispose of the charge against such witness, who, if he is found guilty thereof, shall be liable to a fine not exceeding one hundred dollars, or to imprisonment, with or without hard labour, for a term not exceeding ninety days, or to both. R.S., c. 146, s. 972. Detention on warrant.

**973.** Either before or during the sittings of any court of criminal jurisdiction, the court, or any judge thereof, or any judge of any superior or county court, if satisfied by evidence upon oath that any person within the province likely to give material evidence, either for the prosecution or for the accused, will not attend to give evidence at such sittings without being compelled so to do, may, by his warrant, cause such witness to be apprehended and forthwith brought before such court or judge and such witness may be detained on such warrant before such court or judge or in the common gaol, with a view to secure his presence as a witness, or, in the discretion of the court or judge, may be released on a recognizance, with or without sureties, conditioned for his appearance to give evidence. R.S., c. 146, s. 973. Disposing of charge of contempt.

**974.** Warrant against witness in the first instance.

**974.**  
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Witness in  
Canada  
but beyond  
jurisdiction  
of court.

Subpœna.

Proceedings  
when  
subpœna  
disobeyed.

Courts  
auxiliary.

Judgment  
of one  
court  
acted on by  
another.

Procuring  
attendance  
of witness  
who is a  
prisoner.

Order.

Prisoner  
conveyed  
according  
to terms  
of order.

**974.** If any witness in any criminal case, cognizable by indictment in any court of criminal jurisdiction at any term, sessions or sittings of any court in any part of Canada, resides in any part of Canada, not within the ordinary jurisdiction of the court before which such criminal case is cognizable, such court may issue a writ of subpœna, directed to such witness, in like manner as if such witness was resident within the jurisdiction of the court. R.S., c. 146, s. 974.

**975.** If such witness does not obey such writ of subpœna the court issuing the same may proceed against such witness for contempt or otherwise, or bind over such witness to appear at such days and times as are necessary, and upon default being made in such appearance may cause the recognizances of such witness to be estreated, and the amount thereof to be sued for and recovered by process of law, in like manner as if such witness was resident within the jurisdiction of the court. R.S., c. 146, s. 975.

**976.** The courts of the several provinces and the judges of the said courts respectively shall be auxiliary to one another for the purposes of this Act; and any judgment, decree or order made by the court issuing such writ of subpœna upon any proceeding against any witness for contempt or otherwise may be enforced or acted upon by any court in the province in which such witness resides in the same manner and as validly and effectually as if such judgment, order or decree had been made by such last mentioned court. R.S., c. 146, s. 976.

**977.** When the attendance of any person confined in any prison in Canada, or upon the limits of any gaol, is required in any court of criminal jurisdiction in any case cognizable therein by indictment, the court before whom such prisoner is required to attend, or any judge of such court or of any superior court or county court, or any chairman of general sessions, may, before or during any such term or sittings at which the attendance of such person is required, make an order upon the warden or gaoler of the prison, or upon the sheriff or other person having the custody of such prisoner,

(a) to deliver such prisoner to the person named in such order to receive him; or

(b) to himself convey such prisoner to such place.

2. The warden, gaoler or other person aforesaid, having the custody of such prisoner, when so required by order as aforesaid, upon being paid his reasonable charges in that behalf, or the person to whom such prisoner is required to be delivered as aforesaid, shall, according to the

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exigency

exigency of the order, convey the prisoner to the place at which he is required to attend and there produce him, and then to receive and obey such further order as to the said court seems meet. R.S., c. 146, s. 977.

*Evidence on the Trial.*

**978.** Any accused person on his trial for any indictable offence, or his counsel or solicitor, may admit any fact alleged against the accused so as to dispense with proof thereof. R.S., c. 146, s. 978. Admission on trial.

**979.** A certificate containing the substance and effect only, omitting the formal part, of the indictment and trial for any offence, purporting to be signed by the clerk of the court or other officer having the custody of the records of the court whereat the indictment was tried, or among which such indictment has been filed, or by the deputy of such clerk or other officer, shall, upon the trial of an indictment for perjury or subornation of perjury, be sufficient evidence of the trial of such indictment without proof of the signature or official character of the person appearing to have signed the same. R.S., c. 146, s. 979. Certificate of former trial upon trial of indictment for perjury.  
Evidence.

**980.** When, upon the trial of any person, it becomes necessary to prove that any coin produced in evidence against such person is false or counterfeit, it shall not be necessary to prove the same to be false and counterfeit by the evidence of any moneyer or other officer of His Majesty's mint, or other person employed in producing the lawful coin in His Majesty's dominions or elsewhere, whether the coin counterfeited is current coin, or the coin of any foreign prince, state or country, not current in Canada, but it shall be sufficient to prove the same to be false or counterfeited by the evidence of any witness. R.S., c. 146, s. 980. Evidence of coin being false or counterfeit.

**981.** On the trial of any person charged with any of the offences mentioned in section five hundred and sixty-nine, any letter, circular, writing or paper offering or purporting to offer for sale, loan, gift or distribution, or giving or purporting to give information, directly or indirectly, where, how, of whom or by what means any counterfeit token of value may be obtained or had, or concerning any similar scheme or device to defraud the public, shall be *prima facie* evidence of the fraudulent character of such scheme or device. R.S., c. 146, s. 981. Evidence on proceedings for advertising counterfeit money.

**982.** A certificate containing the substance and effect only, omitting the formal part, of any previous indictment and conviction for any indictable offence, or a copy of any Proof of previous conviction.

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summary conviction, purporting to be signed by the clerk of the court or other officer having the custody of the records of the court before which the offender was first convicted, or to which such summary conviction was returned, or by the deputy of such clerk or officer, shall, upon proof of the identity of the person of the offender, be sufficient evidence of such conviction without proof of the signature or official character of the person appearing to have signed the same. R.S., c. 146, s. 982.

Evidence  
at trial  
for  
child-  
murder.

**983.** The trial of any woman charged with the murder of any issue of her body, male or female, which being born alive would, by law, be bastard, shall proceed and be governed by such and the like rules of evidence and presumption as are by law used and allowed to take place in respect to other trials for murder. R.S., c. 146, s. 983.

Proof of  
age of  
child, boy,  
etc.

**984.** To prove the age of a boy, girl, child or young person for the purposes of sections two hundred and eleven, two hundred and fifteen, two hundred and forty-two, two hundred and forty-three, two hundred and forty-five, two hundred and ninety-four, three hundred and one, three hundred and two, three hundred and fifteen and three hundred and sixteen, any entry or record by an incorporated society or its officers having had the control or care of the boy, girl, child or young person at or about the time of the boy, girl, child or young person being brought to Canada, if such entry or record has been made before the alleged offence was committed, shall be *prima facie* evidence of such age.

Entry or  
record.

Inference  
as to age  
from  
appearance.

2. In the absence of other evidence, or by way of corroboration of other evidence, the judge, or, in cases where an offender is tried with a jury, the jury before whom an indictment for the offence is tried, or the justice before whom a preliminary inquiry therein is held, may infer the age from the appearance of the boy, girl, child or young person. R.S., c. 146, s. 984.

Presence of  
gaming  
instru-  
ments  
proof of  
gaming  
character  
of house.

**985.** When any cards, dice, balls, counters, tables or other instruments of gaming used in playing any game of chance or any mixed game of chance and skill are found in any house, room or place suspected to be used as a common gaming house, and entered under a warrant or order issued under this Act, or about the person of any of those who are found therein, it shall be *prima facie* evidence, on the trial of a prosecution under section two hundred and twenty-eight or section two hundred and twenty-nine, that such house, room or place is used as a common gaming house, and that the persons found in the room or place where such instruments of gaming are found were playing therein,

therein, although no play was actually going on in the presence of the officer entering the same under such warrant or order, or in the presence of the persons by whom he is accompanied. R.S., c. 146, s. 985; 1918, c. 16, s. 4.

**986.** In any prosecution under section two hundred and twenty-eight or under section two hundred and twenty-nine it shall be *prima facie* evidence that a house, room or place is a disorderly house if any constable or officer authorized to enter any house, room or place is wilfully prevented from or obstructed or delayed in entering the same, or any part thereof.

Evidence  
of disorderly  
house.

2. If any house, room or place is found fitted or provided with any means or contrivance for playing any game of chance or any mixed game of chance and skill, gaming or betting, or with any device for concealing, removing or destroying such means or contrivance it shall be *prima facie* evidence that such house, room or place is a common gaming house or common betting house as the means or contrivance may indicate.

3. In any prosecution under section two hundred and twenty-eight, subsection one, two hundred and twenty-nine, or two hundred and thirty, evidence that a person was convicted for being the keeper of a disorderly house shall be *prima facie* evidence that such house is a disorderly house as against any person charged with being or having been at the same time, an inmate or frequenter of the same disorderly house.

Conviction  
of keeper  
*prima facie*  
evidence of  
premises  
being a  
disorderly  
house.

4. In any prosecution under section two hundred and twenty-eight any automatic machine intended to be used for vending merchandise or for any other purpose, the result of one or any number of operations of which is as regards the operator a matter of chance or uncertainty, or which as a consequence of any given number of successive operations yields different results to the operator, shall be deemed to be a means or contrivance for playing a game of chance, within the meaning of subsection two of this section, notwithstanding that the result of some one or more or all of such operations may be known to the operator in advance. 1913, c. 13, s. 29; 1918, c. 16, s. 5; 1921, c. 25, s. 17; 1924, c. 35, s. 1; 1925, c. 38, s. 24.

Certain  
automatic  
machines to  
be deemed  
means or  
contrivance  
for playing  
game of  
chance.

**987.** Whenever, on the trial of a person charged with making an agreement for the sale or purchase of shares, goods, wares or merchandise in the manner set forth in section two hundred and thirty-one, it is established that the person so charged has made or signed any such contract or agreement of sale or purchase, or has acted, aided or abetted in the making or signing thereof, the burden of proof of the *bona fide* intention to acquire or to sell such

Evidence  
of gaming  
in stocks  
or mer-  
chandise.

shares, goods, wares or merchandise, or to deliver or to receive delivery thereof, as the case may be, shall rest upon the person so charged. 1908, c. 18, s. 13.

Evidence  
of stealing  
ores or  
minerals.

**988.** In any prosecution, proceeding or trial for stealing ores or minerals the possession, contrary to the provisions of any law in that behalf, of any smelted gold or silver, or any gold-bearing quartz, or any unsmelted or otherwise unmanufactured gold or silver, by any operator, workman or labourer actively engaged in or on any mine, shall be *prima facie* evidence that the same has been stolen by him. R.S., c. 146, s. 988.

Evidence  
of property  
in cattle.

**989.** In any criminal prosecution, proceeding or trial, the presence upon any cattle of a brand or mark, which is duly recorded or registered under the provisions of any Act, ordinance or law, shall be *prima facie* evidence that such cattle are the property of the registered owner of such brand or mark.

Possession  
of cattle  
with brand  
*prima facie*  
evidence  
of theft.

2. When a person is charged with theft of cattle, or with an offence under paragraph (a) or paragraph (b) of section three hundred and ninety-two respecting cattle, possession by such person or by others in his employ or on his behalf of such cattle bearing such a brand or mark of which the person charged is not the registered owner, shall throw upon the accused the burden of proving that such cattle came lawfully into his possession or into the possession of such others in his employ or on his behalf, unless it appears that such possession by others in his employ or on his behalf was without his knowledge and without his authority, sanction or approval. R.S., c. 146, s. 989.

Evidence  
of property  
in timber.

**990.** In any prosecution, proceeding or trial for any offence under section three hundred and ninety-four, if any timber, mast, spar, saw-log, shingle bolt or other description of lumber is marked with a timber mark duly registered under the provisions of the Timber Marking Act, or the Forest Act of the Statutes of British Columbia, such mark shall be *prima facie* evidence that such timber, mast, spar, saw-log, shingle bolt or other description of lumber is the property of the registered owner of such timber mark.

Possession  
of timber  
with mark,  
*prima facie*  
evidence  
of theft.

2. Possession by the accused, or by others in his employ or on his behalf, of any such timber, mast, spar, saw-log, shingle bolt or other description of lumber so marked shall, in all cases, throw upon him the burden of proving that such timber, mast, spar, saw-log, shingle bolt or other description of lumber came lawfully into his possession, or into the possession of such others in his employ or on his behalf. 1912, c. 18, s. 2.



**991.** In any prosecution, proceeding or trial under sections four hundred and thirty-three to four hundred and thirty-seven inclusive for offences relating to public stores, proof that any soldier, seaman or marine was actually doing duty in His Majesty's service shall be *prima facie* evidence that his enlistment, entry or enrolment has been regular.

Evidence of enlistment in cases as to public stores.

2. If the person charged with the offence relating to public stores mentioned in section four hundred and thirty-four was, at the time at which the offence is charged to have been committed, in His Majesty's service or employment, or a dealer in marine stores, or a dealer in old metals, knowledge on his part that the stores to which the charge relates bore the marks described in section four hundred and thirty-two shall be presumed until the contrary is shown. R.S., c. 146, s. 991.

Presumption when accused dealer in stores.

**992.** In any prosecution, proceeding or trial for any offence under Part VII relating to fraudulent marks on merchandise, if the offence relates to imported goods, evidence of the port of shipment shall be *prima facie* evidence of the place or country in which the goods were made or produced. R.S., c. 146, s. 992.

Evidence in cases of fraudulent marks on merchandise.

**993.** When proceedings are taken against any person for having received goods knowing them to be stolen, or for having in his possession stolen property, evidence may be given, at any stage of the proceedings, that there was found in the possession of such person other property stolen within the preceding period of twelve months, and such evidence may be taken into consideration for the purpose of proving that such person knew the property which forms the subject of the proceedings taken against him to be stolen, if not less than three days' notice in writing has been given to the person accused that proof is intended to be given of such other property, stolen within the preceding period of twelve months, having been found in his possession.

Proceedings against receivers.

Possession of other stolen property.

Notice.

2. Such notice shall specify the nature or description of such other property, and the person from whom the same was stolen. R.S., c. 146, s. 993.

Contents of notice.

**994.** When proceedings are taken against any person for having received goods knowing them to be stolen, or for having in his possession stolen property, and evidence has been given that the stolen property has been found in his possession, then if such person has, within five years immediately preceding, been convicted of any offence involving fraud or dishonesty, evidence of such previous conviction may be given at any stage of the proceedings, and

Receiving stolen goods.

Possession.

Previous conviction.

Notice.

may be taken into consideration for the purpose of proving that the person accused knew the property which was proved to be in his possession to have been stolen, if not less than three days' notice in writing has been given to the person accused that proof is intended to be given of such previous conviction.

Need not be charged in indictment.

2. It shall not be necessary, for the purposes of this section, to charge in the indictment the previous conviction of the person so accused. R.S., c. 146, s. 994.

*Evidence taken apart from Trial.*

Evidence of person dangerously ill may be taken under commission.

**995.** Whenever it is made to appear at the instance of the Crown, or of the prisoner or defendant, to the satisfaction of a judge of a superior court, or a judge of a county court having criminal jurisdiction, that any person who is dangerously ill, and who, in the opinion of some licensed medical practitioner, is not likely to recover from such illness, is able and willing to give material information relating to any indictable offence, or relating to any person accused of any such offence, such judge may, by order under his hand, appoint a commissioner to take in writing the statement on oath or affirmation of such person.

Evidence to be sent to proper officer when trial outstanding.

2. Such commissioner shall take such statement and shall subscribe the same and add thereto the names of the persons, if any, present at the taking thereof, and if the deposition relates to any indictable offence for which any accused person is already committed or bailed to appear for trial, shall transmit the same, with the said addition, to the proper officer of the court at which such accused person is to be tried.

In other cases to clerk of the peace.

3. In every other case he shall transmit the same to the clerk of the peace of the county, division or city in which he has taken the same, or to such other officer as has charge of the records and proceedings of a superior court of criminal jurisdiction in such county, division or city.

Evidence to be kept for use.

4. Such clerk of the peace or other officer shall preserve the same and file it of record, and upon the order of the court or a judge transmit the same to the proper officer of the court where the same shall be required to be used as evidence. R.S., c. 146, s. 995.

Presence of prisoner when such evidence is taken.

**996.** Whenever a prisoner in actual custody is served with or receives notice of an intention to take the statement mentioned in the last preceding section the judge who has appointed the commissioner may, by an order in writing, direct the officer or other person having the custody of the prisoner to convey him to the place mentioned in the said notice for the purpose of being present at the taking of the statements; and such officer or other person

shall convey the prisoner accordingly, and the expenses of such conveyance shall be paid out of the funds applicable to the other expenses of the prison from which the prisoner has been conveyed. R.S., c. 146, s. 996.

**997.** Whenever it is made to appear, at the instance of the Crown, or of the prisoner or defendant, to the satisfaction of the judge of any superior court, or the judge of a county court having criminal jurisdiction, or of any magistrate acting under Part XVI or of any judge acting under Part XVIII, that any person who resides out of Canada is able to give material information relating to any indictable offence for which a prosecution is pending, or relating to any person accused of such offence, such judge may, by order under his hand, appoint a commissioner or commissioners to take the evidence, upon oath, of such person.

Evidence may be taken out of Canada under commission.

2. Until otherwise provided by rules of court, the practice and procedure in connection with the appointment of commissioners, under this section, the taking of depositions by such commissioners, and the certifying and return thereof, and the use of such depositions as evidence, shall be as nearly as practicable the same as those which prevail in the respective courts in connection with like matters in civil causes.

Rules and practice same as in other cases.

3. The depositions taken by such commissioners may be used as evidence at the trial.

Depositions evidence.

4. Subject to such rules of court or to the practice or procedure aforesaid, such depositions may, by the direction of the presiding judge, be read in evidence before the grand jury. R.S., c. 146, s. 997; 1925, c. 38, s. 25.

May be read before grand jury.

#### *Admission on Trial of Evidence Previously Taken.*

**998.** If the statement of a sick person has been taken by a commissioner as provided in section nine hundred and ninety-five, and upon the trial of any offender for any offence to which the same relates, the person who made the statement is proved to be dead, or if it is proved that there is no reasonable probability that such person will ever be able to attend at the trial to give evidence, such statement may, upon the production of the judge's order appointing the commissioner, be read in evidence, either for or against the accused, without further proof thereof, if the same purports to be signed by the commissioner by or before whom it purports to have been taken, and it is proved to the satisfaction of the court that reasonable notice of the intention to take such statement was served upon the person, whether prosecutor or accused, against whom it is proposed to be read in evidence, and that such

Deposition may be read in evidence.

Notice of intention to read and opportunity of cross-examination.

981

person

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person or his counsel or solicitor had, or might have had, if he had chosen to be present, full opportunity of cross-examining the person who made the same. R.S., c. 146, s. 998.

Deposition  
on pre-  
liminary  
inquiry  
may be  
read in  
evidence  
in certain  
events.

**999.** If upon the trial of an accused person such facts are proved upon oath or affirmation that it can be reasonably inferred therefrom that any person, whose evidence was given at any former trial upon the same charge, or whose deposition has been theretofore taken in the investigation of the charge against such accused person, is dead, or so ill as not to be able to travel, or is absent from Canada, or if such person refuses to be sworn or to give evidence, and if it is proved that such evidence was given or such deposition was taken in the presence of the person accused, and that he or his counsel or solicitor if present had a full opportunity of cross-examining the witness, then if the evidence or deposition purports to be signed by the judge or justice before whom the same purports to have been taken, it shall be read as evidence in the prosecution, without further proof thereof, unless it is proved that such evidence or deposition was not in fact signed by the judge or justice purporting to have signed the same. 1913, c. 13, s. 30.

Depositions  
may be  
used in  
trial for  
other  
offences.

**1000.** Depositions taken in the preliminary or other investigation of any charge against any person may be read as evidence in the prosecution of such person for any other offence, upon the like proof and in the same manner, in all respects, as they may, according to law, be read in the prosecution of the offence with which such person was charged when such depositions were taken. R.S., c. 146, s. 1000.

Statement  
by accused.

**1001.** The statement made by the accused person before the justice may, if necessary, upon the trial of such person, be given in evidence against him without further proof thereof, unless it is proved that the justice purporting to have signed the same did not in fact sign the same. R.S., c. 146, s. 1001.

Corrobor-  
ation  
necessary  
in certain  
cases.

**1002.** No person accused of an offence under any of the hereunder mentioned sections shall be convicted upon the evidence of one witness, unless such witness is corroborated in some material particular by evidence implicating the accused:—

- (a) Treason, Part II, section seventy-four;
- (b) Perjury, Part IV, section one hundred and seventy-four;

- (c) Offences under Part V, sections two hundred and eleven to two hundred and twenty inclusive, except subsections two to five inclusive of section two hundred and fifteen;
- (d) Offences under Part VI, section three hundred and one and subsection two of section three hundred and nine;
- (e) Forgery, Part VII, sections four hundred and sixty-eight to four hundred and seventy inclusive. 1925, c. 38, s. 26.

**1003.** Where, upon the hearing or trial of any charge for carnally knowing or attempting to carnally know a girl under fourteen or of any charge under section two hundred and ninety-two for indecent assault, the girl in respect of whom the offence is charged to have been committed, or any other child of tender years who is tendered as a witness, does not, in the opinion of the court or justices, understand the nature of an oath, the evidence of such girl or other child of tender years may be received though not given upon oath if, in the opinion of the court or justices, as the case may be, such girl or other child of tender years is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth. Evidence of child not under oath received in certain cases

2. No person shall be liable to be convicted of the offence unless the testimony admitted by virtue of this section and given on behalf of the prosecution, is corroborated by some other material evidence in support thereof implicating the accused. Corroboration.

3. Any witness whose evidence is admitted under this section is liable to indictment and punishment for perjury in all respects as if he or she had been sworn. If false, perjury. R.S., c. 146, s. 1003.

### *Sentence, Arrest of Judgment and Appeal.*

**1004.** If the jury find the accused guilty, or if the accused pleads guilty, the judge presiding at the trial shall ask him whether he has anything to say why sentence should not be passed upon him according to law: Provided that the omission so to ask shall have no effect on the validity of the proceedings. Accused found guilty R.S., c. 146, s. 1004. Question before sentence.

**1005.** If one sentence is passed upon any verdict of guilty on more counts of an indictment than one, the sentence shall be good if any of such counts would have justified it. Sentence justified by any count. R.S., c. 146, s. 1005.

Where  
sentence  
carried  
out when  
venue  
changed.

**1006.** When any sentence is passed upon any person after a trial had under an order for changing the place of trial, the court may in its discretion, either direct the sentence to be carried out at the place where the trial was had or order the person sentenced to be removed to the place where his trial would have been had but for such order, so that the sentence may be there carried out. R.S., c. 146, s. 1006.

Motion in  
arrest of  
judgment.

**1007.** The accused may at any time before sentence move in arrest of judgment on the ground that the indictment does not, after amendment, if any, state any indictable offence.

Deciding or  
reserving.

2. The court may in its discretion either hear and determine the matter during the same sittings or reserve the matter for the court of appeal as hereinafter provided.

Discharge.

3. If the court decides in favour of the accused, he shall be discharged from that indictment.

Sentence  
during  
sitting  
of court.

4. If no such motion is made, or if the court decides against the accused upon such motion, the court may sentence the accused during the sittings of the court, or the court may in its discretion discharge him on his own recognizance, or on that of such sureties as the court thinks fit, or both, to appear and receive judgment at some future court or when called upon.

Sentence  
subse-  
quently.

5. If sentence is not passed during the sittings, the judge of any superior court before which the person so convicted afterwards appears or is brought, or if he was convicted before a court of general or quarter sessions, the court of general or quarter sessions at a subsequent sittings may pass sentence upon him or direct him to be discharged. R.S., c. 146, s. 1007.

Woman  
sentenced  
to death  
while  
pregnant.  
Inquiry  
as to  
pregnancy.

**1008.** If sentence of death is passed upon any woman she may move in arrest of execution on the ground that she is pregnant.

2. If such motion is made the court shall direct one or more registered medical practitioners to be sworn to examine the woman in some private place, either together or successively, and to inquire whether she is with child of a quick child or not.

Arresting  
execution.

3. If upon the report of any of them it appears to the court that she is so with child, execution shall be arrested until she is delivered of a child, or until it is no longer possible in the course of nature that she should be so delivered. R.S., c. 146, s. 1008.

Jury *de*  
*ventre*  
*inspiciendo*.

**1009.** No jury *de ventre inspiciendo* shall be empannelled or sworn. R.S., c. 146, s. 1009.

**1010.** Judgment, after verdict upon an indictment for any offence against this Act, shall not be stayed or reversed

Judgment not to be stayed or reversed on certain grounds.

- (a) for want of a *similiter*;
- (b) by reason that the jury process has been awarded to a wrong officer, upon an insufficient suggestion;
- (c) for any misnomer or misdescription of the officer returning such process, or of any of the jurors; or
- (d) because any person has served upon the jury who was not returned as a juror by the sheriff or other officer.

2. Where the offence charged is an offence created by any statute, or subjected to a greater degree of punishment by any statute, the indictment shall, after verdict, be held sufficient, if it describes the offence in the words of the statute creating the offence, or prescribing the punishment, although they are disjunctively stated or appear to include more than one offence, or otherwise. R.S., c. 146, s. 1010.

Indictment sufficient after verdict notwithstanding certain objections.

**1011.** No omission to observe the directions contained in any Act as respects the qualification, selection, balloting or distribution of jurors, the preparation of the jurors' book, the selecting of jury lists, the drafting of panels from the jury lists or the striking of special juries, shall be a ground for impeaching any verdict, or shall be allowed for error upon any appeal to be brought upon any judgment rendered in any criminal case. R.S., c. 146, s. 1011.

Direction as to jury or jurors directory.

#### *Appeal from Conviction on Indictment.*

**1012.** In this section and in the following sections of this Part, unless the context otherwise requires,

Interpretation.

- (a) "appellant" includes a person who has been convicted on indictment and desires to appeal under the next following section of this Act;
- (b) "court of appeal" means the court designated by paragraph (7) of section two of this Act as the court of appeal for the province in which the conviction on indictment was had;
- (c) "indictment" includes any information, complaint or charge whereon a person has been tried under the provisions of Part XVI or Part XVIII of this Act and convicted of an indictable offence;
- (d) "registrar" means the registrar, clerk or other chief officer of the court of appeal;
- (e) "sentence" includes any order of the trial court made on conviction with reference to the person convicted or his wife or children; and the power of the court of appeal to pass a sentence includes a power to make any such order of the court of appeal;

(f) "trial court" means the court before which the appellant was tried and convicted, and includes a "magistrate" acting under Part XVI and a "judge" acting under Part XVIII. 1923, c. 41, s. 9.

Right of  
appeal  
against  
conviction.

**1013.** A person convicted on indictment may appeal to the court of appeal against his conviction

- (a) on any ground of appeal which involves a question of law alone;
- (b) with leave of the court of appeal, or upon the certificate of the trial court that it is a fit case for appeal, on any ground of appeal which involves a question of fact alone or a question of mixed law and fact; and
- (c) with leave of the court of appeal, on any other ground which appears to the court of appeal to be a sufficient ground of appeal.

Right of  
appeal  
against  
sentence.

2. A person convicted on indictment, or the Attorney General, or the counsel for the Crown at the trial, may with leave of a judge of the court of appeal, appeal to that court against the sentence passed by the trial court, unless that sentence is one fixed by law.

Abolition  
of pro-  
ceedings  
in error  
and new  
trials.

3. No proceeding in error shall be taken in any criminal case, and the powers and practice now existing in the court of criminal appeal for any province, in respect of motions for or the granting of new trials of persons convicted on indictment are hereby abolished.

Opinion of  
majority of  
members of  
court  
decisive.  
How  
judgment is  
to be  
pronounced.

4. The determination of any question before the court of appeal shall be according to the opinion of the majority of the members of that court hearing the case.

5. Unless the court of appeal directs to the contrary in cases where, in the opinion of that court, the question is a question of law on which it would be convenient that separate judgments should be pronounced by the members of the court, the judgment of the court shall be pronounced by the president of the court or such other member of the court hearing the case as the president of the court directs, and no judgment with respect to the determination of any question shall be separately pronounced by any other member of the court. 1923, c. 41, s. 9.

Allowance  
of appeal  
against  
conviction.

**1014.** On the hearing of any such appeal against conviction the court of appeal shall allow the appeal if it is of opinion

- (a) that the verdict of the jury should be set aside on the ground that it is unreasonable or cannot be supported having regard to the evidence; or
- (b) that the judgment of the trial court should be set aside on the ground of a wrong decision of any question of law; or



(c) that on any ground there was a miscarriage of justice; and

(d) in any other case shall dismiss the appeal.

Dismissal

2. The court may also dismiss the appeal if, notwithstanding that it is of opinion that on any of the grounds above mentioned the appeal might be decided in favour of the appellant, it is also of opinion that no substantial wrong or miscarriage of justice has actually occurred.

Exception when no substantial wrong or miscarriage of justice.

3. Subject to the special provisions contained in the following sections of this Part, when the court of appeal allows an appeal against conviction it may

Powers of court if appeal is allowed

(a) quash the conviction and direct a judgment and verdict of acquittal to be entered; or

Quashing conviction

(b) direct a new trial;

New trial.

and in either case may make such other order as justice requires.

4. When the court of appeal directs a new trial in the case of an appellant convicted, under the provisions of Part XVI or Part XVIII of this Act, of an indictable offence, if his consent or election was necessary to give jurisdiction to the magistrate or judge before whom he was tried, the new trial shall be before a jury if the appellant so requests in his notice of appeal or notice of application for leave to appeal, but otherwise shall, in the discretion of the court of appeal, be either before the proper magistrate or judge or before a jury. 1923, c. 41, s. 9.

Court for new trial of appellant convicted on Summary Trial or Speedy Trial.

**1015.** On an appeal against sentence, unless the sentence is one fixed by law, the court of appeal shall consider the fitness of the sentence appealed against, and may upon such evidence, if any, as it thinks fit to require or to receive,

Powers of court on appeal against sentence.

(a) refuse to alter that sentence; or

(b) diminish or increase the punishment imposed by that sentence, but always so that the diminution or increase be within the limits of the punishment prescribed by law for the offence of which the offender has been convicted; or

(c) otherwise, but within such limits, modify the punishment imposed by that sentence; and

(d) in any other case shall dismiss the appeal.

2. A judgment whereby the court of appeal so diminishes, increases or modifies the punishment of an offender shall have the same force and effect as if it were a sentence passed by the trial court. 1923, c. 41, s. 9.

Effect of judgment.

**1016.** If it appears to the court of appeal that an appellant, though not properly convicted on some count or part of the indictment, has been properly convicted on some other count or part of the indictment, the court

Powers of court in special cases.

Multiple  
counts.

may either affirm the sentence passed on the appellant by the trial court or pass such sentence in substitution therefor as the court thinks proper, and as may be warranted in law by the verdict on the count or part of the indictment on which the court considers that the appellant has been properly convicted.

Possibility  
of conviction  
for offence  
other than  
that  
charged.

2. Where an appellant has been convicted of an offence and the jury or, as the case may be, the judge or magistrate, could on the indictment have found him guilty of some other offence, and on the actual finding it appears to the court of appeal that the jury, judge or magistrate must have been satisfied of facts which proved him guilty of that other offence, the court of appeal may, instead of allowing or dismissing the appeal, substitute for the verdict found a verdict of guilty of that other offence, and pass such sentence in substitution for the sentence passed by the trial court as may be warranted in law for that other offence, not being a sentence of greater severity.

Wrong  
conclusion  
on special  
verdict.

3. Where on the conviction of the appellant the jury have found a special verdict, and the court of appeal considers that a wrong conclusion has been arrived at by the trial court as to the effect of that verdict, the court of appeal may, instead of allowing the appeal, order such conclusion to be recorded as appears to the court to be in law required by the verdict, and pass such sentence in substitution for the sentence passed by the trial court as may be warranted in law.

Insanity.

4. If on any appeal it appears to the court of appeal that, although the appellant was guilty of the act or omission charged against him, he was insane at the time the act was done or omission made so as not to be responsible according to law for his actions, the court may quash the sentence passed by the trial court and order the appellant to be kept in strict custody, in such place and such manner as to the court of appeal seems fit, until the pleasure of the lieutenant governor of the province is known. 1923, c. 41, s. 9.

Restitution  
of property.

**1017.** The operation of any order for the restitution of any property to any person made on a conviction on indictment, and the operation in case of any such conviction, of the provisions of sections seven hundred and ninety-five, one thousand and forty-eight, one thousand and forty-nine, and one thousand and fifty of this Act, shall, unless the trial court has directed to the contrary in any case in which, in its opinion, the title to the property is not in dispute, be suspended

Suspension  
of orders of  
trial  
court.

(a) in any case until the expiration of such time after the date of the conviction as may be directed by rules of court for giving notice of appeal or of application for leave to appeal; and

(b) in cases where such notice has been given within the time so directed, until the determination of the appeal; and in cases where the operation of any such order, or the operation of the said provisions, is suspended until the determination of the appeal, the order or provisions, as the case may be, shall not take effect as to the property in question if the conviction is quashed on appeal; and provision may be made by rules of court for securing the safe custody of any property, pending the suspension of the operation of any such order or of the said provisions. Safe custody of property.

2. The court of appeal may by order annul or vary any order made by the trial court for the restitution of any property to any person, although the conviction is not quashed; and the order, if annulled, shall not take effect, and, if varied, shall take effect as so varied. 1923, c. 41, s. 9. Annulment or variation of orders of trial court.

### *Procedure on Appeals against Conviction or Sentence.*

**1018.** Where a person convicted on indictment desires to appeal to the court of appeal, or to obtain the leave of that court to appeal, he shall give notice of appeal, or notice of his application for leave to appeal, in such manner and within such time after the date of his conviction, as may be directed by rules of court; and such rules shall enable any convicted person to present his case and his argument in writing instead of by oral argument if he so desires, and any case or argument so presented shall be considered by the court. Manner of and time for appealing.

2. Except in the case of a conviction involving sentence of death, the time, within which notice of appeal or notice of an application for leave to appeal may be given, may be extended at any time by the court of appeal or by any judge of that court. Extension of time.

3. In the case of a conviction involving sentence of death or whipping Delay of execution of sentence of death or whipping.

(a) the sentence shall not in any case be executed until after the expiration of the time within which notice of appeal or of an application for leave to appeal may be given under this section; and

(b) if notice is so given, the appeal or application shall be heard and determined with as much expedition as practicable, and the sentence shall not be executed until after the determination of the appeal, or, in cases where an application for leave to appeal is finally refused, of the application.

Proof and  
effect of  
notice of  
appeal in  
cases of  
sentence of  
death or  
whipping

4. The production of a certificate from the registrar that notice of appeal or of application for leave to appeal has been duly given, or the production of a certificate from the Minister of Justice that he has directed a new trial shall be a sufficient warrant to suspend the execution of any sentence of death or whipping.

In other  
cases.

5. In the case of a conviction not involving sentence of death or whipping the sentence of the trial court shall not be suspended by reason of any notice of appeal or of application for leave to appeal, whether against conviction or against sentence, unless the court of appeal or a judge of the court of appeal expressly so directs. 1923, c. 41, s. 9.

Bail.

**1019.** The chief justice or the acting chief justice of the court of appeal or a judge of that court to be designated by him, may if it seems fit, on the application of an appellant, admit the appellant to bail pending the determination of his appeal.

Effect as to  
term of  
imprison-  
ment.

2. The time during which an appellant, pending the determination of his appeal, is admitted to bail, and, subject to any directions which the court of appeal may give to the contrary on any appeal, the time during which the appellant, if in custody, is specially treated as an appellant under the rules of any prison in which he is confined, shall not count as part of any term of imprisonment under his sentence; and, in the case of an appeal under this Part any imprisonment under the sentence of the appellant, whether it is the sentence passed by the trial court or the sentence passed by the court of appeal, shall, subject to any directions which may be given by the court of appeal as aforesaid, be deemed to be resumed or to begin to run, as the case requires, if the appellant is in custody, as from the day on which the appeal is determined, and, if he is not in custody, as from the day on which he is received into prison under the sentence. 1923, c. 41, s. 9.

Judge's  
notes of  
trial.

**1020.** The judge or magistrate before whom a person has been tried on indictment shall, in the case of appeal under this Part against the conviction or against the sentence, or in the case of an application for leave to appeal under this Part, furnish to the court of appeal, in accordance with rules of court, his notes of the trial; and shall also furnish to the court of appeal in accordance with rules of court, a report giving his opinion upon the case or upon any point arising in the case.

Report by  
judge.

2. In all cases where notes of the evidence or any part thereof have been made at the trial a copy, or in the case of shorthand notes a transcript, of such notes shall be made and furnished to the court of appeal. Shorthand notes of proceedings and evidence.

3. A copy or transcript, as the case may be, of such notes shall be furnished to any party interested upon payment of such charges, if any, as may be fixed by rules of court. Transcripts. For interested parties.

4. The Minister of Justice may, if he thinks fit in any case, direct that a copy of the judge's or magistrate's notes, or a copy or transcript of the notes of the evidence, shall be furnished to him. For Minister of Justice.

5. Rules of court may make such provision as is necessary for securing the accuracy of the notes to be taken and for the verification of any transcript thereof. 1923, c. 41, s. 9. Rules of court for accuracy and verification.

**1021.** For the purposes of an appeal under this Part, the court of appeal may if it thinks it necessary or expedient in the interest of justice Supplemental powers of court.

(a) order the production of any document, exhibit, or other thing connected with the proceedings, the production of which appears to it necessary for the determination of the case; and Production of documents.

(b) if it thinks fit, order any witnesses who would have been compellable witnesses at the trial to attend and be examined before the court of appeal, whether they were or were not called at the trial, or order the examination of any such witnesses to be conducted in manner provided by rules of court before any judge of the court of appeal, or before any officer of the court of appeal or justice of the peace or other person appointed by the court of appeal for the purpose, and allow the admission of any deposition so taken as evidence before the court of appeal; and Attendance and examination of witnesses.

(c) if it thinks fit, receive the evidence, if tendered, of any witness (including the appellant) who is a competent but not compellable witness, and, if the appellant makes an application for the purpose, of the husband or wife of the appellant, in cases where the evidence of the husband or wife could not have been given at the trial except on such an application; and Reception of evidence.

(d) where any question arising on the appeal involves prolonged examination of documents or accounts, or any scientific or local investigation, which cannot in the opinion of the court of appeal conveniently be conducted before the court of appeal, order the reference of the question, in manner provided by rules of court, for inquiry and report to a special commissioner Reference of certain questions to special commissioners.

appointed by the court of appeal, and act upon the report of any such commissioner so far as the court of appeal thinks fit to adopt it; and

**Assessors.** (e) appoint any person with special expert knowledge to act as assessor to the court of appeal in any case where it appears to the court of appeal that such special knowledge is required for the proper determination of the case;

and exercise in relation to the proceedings of the court of appeal any other powers which may for the time being be exercised by the court of appeal on appeals in civil matters, and issue any warrants necessary for enforcing the orders or sentences of the court of appeal.

**Custody of documents.** 2. Any documents, exhibits, or other things connected with the proceedings on the trial of any person on indictment, who, if convicted, is entitled or may be authorized to appeal under this Part, shall be kept in the custody of the trial court in accordance with rules of the court of appeal made for the purpose, for such time as may be provided by the rules, and subject to such power as may be given by the rules for the conditional release of any such documents, exhibits, or other things from that custody.

**Provision of copies for use of Crown officers.** 3. Provision shall be made by rules of court for furnishing to the Attorney General and to the counsel who acted for the Crown at the trial of certified copies of such documents, exhibits, and other things connected with the proceedings as they may require for the purposes of their duties in respect to appeals and applications for leave to appeal.

**Legal assistance for appellant.** 4. The court of appeal, or any judge of that court, may at any time assign to an appellant a solicitor and counsel, or counsel only, in any appeal or proceeding preliminary or incidental to an appeal in which, in the opinion of that court or judge, it appears desirable in the interests of justice that the appellant should have legal aid, and that he has not sufficient means to enable him to obtain that aid.

**Duty of registrar.** 5. The registrar shall report to the court of appeal or some judge thereof any case in which it appears to him that, although no application has been made for the purpose, a solicitor and counsel, or counsel only, ought to be assigned to an appellant under the powers given to the court of appeal by this Act.

**Right of appellant to be present.** 6. An appellant, notwithstanding that he is in custody, shall be entitled to be present, if he desires it, on the hearing of his appeal, except where the appeal is on some ground involving a question of law alone, but, in that case and on an application for leave to appeal and on any proceedings preliminary or incidental to an appeal, shall not be entitled to be present, except where rules of court provide

vide that he shall have the right to be present, or where the court of appeal or a judge of that court gives him leave to be present.

7. The power of the court of appeal to pass any sentence under section one thousand and fifteen of this Act may be exercised notwithstanding that the appellant is for any reason not present. Sentence in absence of appellant.

8. On the hearing and determination of an appeal, or any proceedings preliminary or incidental thereto, under this Part, no costs shall be allowed on either side. Costs of appeal.

9. The registrar shall take all necessary steps for obtaining a hearing of any appeal or application, notice of which is given to him under section one thousand and eighteen of this Act, and shall obtain and lay before the court of appeal in proper form all documents, exhibits, and other things relating to the proceedings in the trial court which appear necessary for the proper determination of an appeal or application. Duties of registrar with respect to notices of appeal, etc.

10. If it appears to the registrar that any notice of an appeal against a conviction, purporting to be on a ground of appeal which involves a question of law alone, does not show any substantial ground of appeal, the registrar may refer the appeal to the court of appeal for summary determination, and, where the case is so referred, the court of appeal may, if it considers that the appeal is frivolous or vexatious, and can be determined without adjourning the same for a full hearing, dismiss the appeal summarily, without calling on any persons to attend the hearing or to appear for the Crown thereon. Summary determination of frivolous appeals.

11. Rules of court may be made to provide for furnishing the necessary forms and instructions in relation to notices of appeal or notices of application under section one thousand and eighteen of this Act, to any person who demands the same, and to the registrar, clerk, or other chief officer of every provincial court having jurisdiction to try indictable offences, to magistrates having such jurisdiction, to sheriffs, to the warden of the penitentiary for the province, to gaolers or keepers of prisons within the province, and to such other officers or persons as may be designated by such rules of court. Furnishing of forms and instructions.

12. Every such warden, gaoler or keeper of a prison shall cause those forms and instructions to be placed at the disposal of prisoners desiring to appeal or to make any application under section one thousand and eighteen of this Act, and shall cause any such notice given by a prisoner in his custody to be forwarded on behalf of the prisoner to the registrar. Duties of prison officials as to furnishing forms, etc.

13. In addition to the powers for making rules of court conferred upon every superior court of criminal jurisdiction Powers to make rules of court

tion by section five hundred and seventy-six of this Act, the court of appeal shall have power to make rules of court, not inconsistent with any statute of Canada or of any province of Canada, for the purposes of carrying out the provisions of this Part relating to appeals from convictions on indictment.

14. Rules so made may make provision for the practice and procedure upon such appeals and upon all matters arising out of, resulting from or incidental to such appeals.

15. In so far as rules so made affect the warden, keeper or other officers of any prison, or any officer having the custody of a person convicted on indictment, the rules shall, in the case of prisons under the administration and control of the Minister of Justice, be subject to the approval of the Minister of Justice, and in the case of provincial prisons shall be subject to the approval of the Lieutenant Governor in Council of the province.

16. Copies of all rules made under the authority of this section shall be laid before both Houses of Parliament at the session next after the making, or making and approval thereof, and shall also be published in the *Canada Gazette*.

17. If an address is presented to the Governor in Council by either House of Parliament, within the next subsequent thirty days on which that House has sat next after any such rule is laid before it, praying that the rule may be annulled, the Governor in Council may annul the rule, which shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder.

18. The Governor in Council may make such provision as he deems fit for securing uniformity in rules made under the authority of this section by the several courts of appeal in the provinces. 1923, c. 41, s. 9.

#### *Prerogative of Mercy.*

Prerogative  
unaffected.

**1022.** Nothing in the ten last preceding sections of this Act shall in any manner limit or affect His Majesty's royal prerogative of mercy.

Powers of  
Minister of  
Justice.

2. Upon any application for the mercy of the Crown on behalf of any person convicted on indictment, the Minister of Justice,

New trials.

(a) if he entertains a doubt whether such person ought to have been convicted, may, after such inquiry as he thinks proper, instead of advising His Majesty to remit or to commute the sentence, direct by an order in writing a new trial at such time and before such court as the Minister of Justice thinks proper; or

Reference  
to court  
of appeal  
for deter-  
mination.

(b) may, at any time, refer the whole case to the court of appeal, and the case shall then be heard and determined by that court as in the case of an appeal by a person convicted; and



(c) at any time, if the Minister of Justice desires the assistance of the court of appeal on any point arising in the case with a view to the determination of the petition, he may refer that point to the court of appeal for its opinion thereon, and that court shall consider the point so referred and furnish the Minister of Justice its opinion thereon accordingly. 1923, c. 41, s. 9.

Reference  
for  
opinion.

**1023.** Any person convicted of any indictable offence whose conviction has been affirmed on an appeal taken under section ten hundred and thirteen may appeal to the Supreme Court of Canada against the affirmance of such conviction on any question of law on which there has been dissent in the Court of Appeal.

Appeal to  
Supreme  
Court  
against  
affirmance.

2. No such appeal can be taken unless notice of appeal in writing has been served on the Attorney General within fifteen days after affirmance or such further time as may be allowed by the Supreme Court of Canada or a judge thereof. 1925, c. 38, s. 27.

Notice to  
be given  
Attorney  
General.

**1024.** The Supreme Court of Canada shall make such rule or order thereon, either in affirmance of the conviction or for granting a new trial, or otherwise, or for granting or refusing such application, as the justice of the case requires, and shall make all other necessary rules and orders for carrying such rule or order into effect.

Order of  
Supreme  
Court of  
Canada.

2. Unless such appeal is brought on for hearing by the appellant at the session of the Supreme Court of Canada during which such affirmance takes place, or the session next thereafter if the said court is not then in session, the appeal shall be held to have been abandoned, unless otherwise ordered by the Supreme Court of Canada or a judge thereof.

Hearing of  
appeal.

Abandon-  
ment.

3. The judgment of the Supreme Court of Canada shall, in all cases, be final and conclusive.

Judgment  
final.

4. Notwithstanding any royal prerogative, or anything contained in the Interpretation Act or in the Supreme Court Act, no appeal shall be brought in any criminal case from any judgment or order of any court in Canada to any court of appeal or authority, by which in the United Kingdom appeals or petitions to His Majesty in Council may be heard. R.S., c. 146, ss. 1024 and 1025.

Appeals  
to Privy  
Council  
abolished.

**1025.** Either the Attorney General of the province or any person convicted of an indictable offence may appeal to the Supreme Court of Canada from the judgment of any court of appeal setting aside or affirming a conviction of an indictable offence, if the judgment appealed from conflicts with the judgment of any other court of appeal

Appeal to  
Supreme  
Court of  
Canada  
where  
judgment  
conflicts  
with the  
judgment  
in

of any  
other court  
of appeal.

in a like case, and if leave to appeal is granted by a judge of the Supreme Court of Canada within twenty-one days after the judgment appealed from is pronounced, or within such extended time thereafter as the judge to whom the application is made may for special reasons allow.

Notice to  
Attorney  
General.

2. Notice of appeal in writing shall be served upon the person convicted or his solicitor, or upon the Attorney General, as the case may be, within fifteen days after the granting of such leave, and subsequent proceedings shall be had in the same manner and with the same effect as provided in the last preceding section.

Persons  
whose  
acquittal  
is set  
aside  
may appeal  
to the  
Supreme  
Court of  
Canada.

3. Any person whose acquittal has been set aside may appeal to the Supreme Court of Canada against the setting aside of such acquittal. 1920, c. 43, s. 16; 1921, c. 25, s. 18.

## PART XX.

### PUNISHMENTS, FINES, FORFEITURES, COSTS AND RESTITUTION OF PROPERTY.

#### *Interpretation.*

Definition,  
"court" in  
ss. 1081,  
1082 and  
1083.

**1026.** In the sections of this Part relating to suspended sentence, unless the context otherwise requires, "court" means and includes any superior court of criminal jurisdiction, any court of general or quarter sessions of the peace, any judge or court within the meaning of Part XVIII and any magistrate within the meaning of Part XVI. R.S. c. 146, s. 1026.

#### *Punishment Generally.*

Punishment.  
only after  
conviction.

**1027.** Whenever a person doing a certain act is declared to be guilty of any offence, and to be liable to punishment therefor, it shall be understood that such person shall only be deemed guilty of such offence and liable to such punishment after being duly convicted of such act. R.S., c. 146, s. 1027.

Degrees in  
punishment.

**1028.** Whenever it is provided that the offender shall be liable to different degrees or kinds of punishment, the punishment to be inflicted shall, subject to the limitations contained in the enactment, be in the discretion of the court or tribunal before which the conviction takes place. R.S., c. 146, s. 1028.

Discretion.

Fine or  
penalty in  
discretion  
of court.

**1029.** Whenever a fine may be awarded or a penalty imposed for any offence, the amount of such fine or penalty shall, within such limits, if any, as are prescribed in that behalf, be in the discretion of the court or person passing sentence or convicting, as the case may be. R.S., c. 146, s. 1029.

*Punishments Abolished.*

**1030.** Outlawry in criminal cases is abolished. R.S., Outlawry. c. 146, s. 1030.

**1031.** The punishment of solitary confinement or of the pillory shall not be awarded by any court. R.S., c. 146, s. 1031. Solitary confinement or pillory.

**1032.** There shall be no forfeiture of any chattels, which have moved to or caused the death of any human being, in respect of such death. R.S., c. 146, s. 1032. Deodand.

**1033.** No confession, verdict, inquest, conviction or judgment of or for any treason or indictable offence, or *felo de se* shall cause any attainder or corruption of blood, or any forfeiture or escheat: Provided that nothing in this section shall affect any penalty or fine imposed on any person by virtue of his sentence, or any forfeiture in relation to which special provision is made by any Act of the Parliament of Canada. R.S., c. 146, s. 1033. Attainder. Penalty. Forfeiture.

*Disabilities.*

**1034.** If any person hereafter convicted of treason or any indictable offence for which he is sentenced to death, or imprisonment for a term exceeding five years, holds at the time of such conviction any office under the Crown or other public employment, or is entitled to any pension or superannuation allowance payable by the public, or out of any public fund, such office or employment shall forthwith become vacant, and such pension or superannuation allowance or emolument shall forthwith determine and cease to be payable, unless such person receives a free pardon from His Majesty, within two months after such conviction, or before the filling up of such office or employment, if given at a later period. Conviction of public official vacates office.

2. Every such person sentenced to imprisonment as aforesaid or on whom sentence of death has been passed which has been commuted to imprisonment, shall become, and, until he undergoes the imprisonment aforesaid or suffers such other punishment as by competent authority is substituted for the same, or receives a free pardon from His Majesty, shall continue incapable of holding any office under the Crown, or other public employment, or of being elected, or sitting, or voting, as a member of either House of Parliament, or of exercising any right of suffrage or other parliamentary or municipal franchise. Official incompetent until punishment undergone or pardon.

3. The setting aside of a conviction by competent authority shall remove the disability by this section imposed. R.S., c. 146, s. 1034. Removing disability.

*Fines and Forfeitures.*

Fines in  
lieu of  
other  
punish-  
ment.

**1035.** Any person convicted by any magistrate under Part XVI or by any court of an indictable offence punishable with imprisonment for five years or less may be fined in addition to, or in lieu of any punishment otherwise authorized, in which case the sentence may direct that in default of payment of his fine the person so convicted shall be imprisoned until such fine is paid, or for a period not exceeding five years, to commence at the end of the term of imprisonment awarded by the sentence, or forthwith as the case may require.

Fines in  
addition to  
other  
punishment.

2. Any person convicted of an indictable offence punishable with imprisonment for more than five years may be fined, in addition to, but not in lieu of, any punishment otherwise ordered, and in such case, also, the sentence may in like manner direct imprisonment in default of payment of any fine imposed.

Fines upon  
corporations

3. Any corporation, convicted of an indictable or other offence punishable with imprisonment, may in lieu of the prescribed punishment be fined in the discretion of the court before which it is convicted. R.S., c. 146, s. 1035; 1909, c. 9, s. 2.

Fines,  
penalties  
and  
forfeitures  
go to  
provincial  
treasurer.

**1036.** Whenever no other provision is made by any law of Canada for the application of any fine, penalty or forfeiture imposed for the violation of any law or of the proceeds of an estreated recognizance, the same shall be paid over by the magistrate or officer receiving the same to the treasurer of the province in which the same is imposed or recovered, except, that

Exception,  
revenue  
laws, etc.

(a) all fines, penalties and forfeitures imposed in respect of the breach of any of the revenue laws of Canada, or imposed upon any officer or employee of the Government of Canada in respect of any breach of duty or malfeasance in his office or employment, and the proceeds of all recognizances estreated in connection with proceedings for the prosecution of persons charged with such breaches or malfeasance; and

Where  
costs of  
prosecu-  
tion borne  
by Canada.

(b) all fines, penalties and forfeitures imposed for whatever cause in any proceeding instituted at the instance of the Government of Canada or of any department thereof in which that Government bears the cost of prosecution, and the proceeds of all recognizances estreated in connection with such proceedings, shall belong to His Majesty for the public uses of Canada, and shall be paid by the magistrate or officer receiving the same to the Minister of Finance and form part of the Consolidated Revenue Fund in Canada:

Provided, however, that with respect to the province of Ontario the fines, penalties and forfeitures and proceeds of estreated recognizances first mentioned in this section shall be paid over to the municipal or local authority where the municipal or local authority wholly or in part bears the expense of administering the law under which the same was imposed or recovered.

Certain  
fines in  
Ontario  
to be paid  
to the  
municipali-  
ties.

2. Nothing in this section contained shall affect any right of a private person suing as well for His Majesty as for himself, to the moiety of any fine, penalty or forfeiture recovered in his suit.

Right of  
private  
prosecutor.

3. The Lieutenant Governor in Council may from time to time direct that any fine, penalty or forfeiture, or any portion thereof paid over to the treasurer of the province under this section be paid to the municipal or local authority if any, which wholly or in part bears the expenses of administering the law under which the same was imposed or recovered, or to be applied in any other manner deemed best adapted to attain the objects of such law and secure its due administration. R.S., c. 146, s. 1036; 1909, c. 9, s. 2; 1922, c. 16, s. 8.

Direction  
to pay  
fine, penalty  
or forfeiture  
to municipi-  
pality.

**1037.** The Governor in Council may, from time to time, direct that any fine, penalty or forfeiture, or any portion thereof, which would otherwise belong to the Crown for the public uses of Canada, be paid to any provincial, municipal or local authority, which wholly or in part bears the expenses of administering the law under which such fine, penalty or forfeiture is imposed, or that the same be applied in any other manner deemed best adapted to attain the objects of such law and to secure its due administration. R.S., c. 146, s. 1037.

Direction  
to pay fine,  
penalty or  
forfeiture  
to municipi-  
pality.

**1038.** Whenever any pecuniary penalty or any forfeiture is imposed for any violation of any Act and no other mode is prescribed for the recovery thereof, such penalty or forfeiture shall be recoverable or enforceable, with costs, in the discretion of the court, by civil action or proceeding at the suit of His Majesty only, or of any person or corporation suing as well for His Majesty as for such person or corporation in any form of action allowed in such case by the law of the province in which it is brought, and before any court having jurisdiction to the amount of the penalty in cases of simple contract.

Recovery  
of penalties,  
etc.

2. If no other provision is made for the appropriation of any penalty or forfeiture so recovered or enforced, one moiety shall belong to His Majesty and the other moiety shall belong to the person or corporation suing for the same, if any, and if there is none, the whole shall belong to His Majesty. 1922, c. 16, s. 9.

Moiety to  
person or  
corporation.

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**1039.**

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Goods forfeited under Part VII.

**1039.** Any goods or things forfeited under any provision of Part VII. relating to forgery of trade marks and fraudulent marking of merchandise, may be destroyed or otherwise disposed of in such manner as the court, by which the same are declared forfeited, directs; and the court may, out of any proceeds realized by the disposition of such goods, after all trade marks and trade descriptions are obliterated, award to any innocent party any loss he may have innocently sustained in dealing with such goods. R.S., c. 146, s. 1039.

Reimbursement of innocent party.

Costs in such prosecutions.

**1040.** On any prosecution under this Act relating to the said last mentioned provisions, the court may order costs to be paid to the defendant by the prosecutor, or to the prosecutor by the defendant, having regard to the information given by and the conduct of the defendant and prosecutor respectively. R.S., c. 146, s. 1040.

Application of fines in relation to coin.

**1041.** A moiety of any of the penalties imposed under sections five hundred and sixty-seven, six hundred and twenty-four, six hundred and twenty-five and six hundred and twenty-six, shall belong to the informer or person who sues for the same, and the other moiety shall belong to His Majesty for the public uses of Canada. R.S., c. 146, s. 1041.

Application of fines in relation to deserters or their effects.

**1042.** One moiety of the amount of any penalty recovered under sections eighty-two, eighty-three, four hundred and thirty-nine or six hundred and fifty-seven, shall be paid over to the prosecutor or person by whose means the offender has been convicted, and the other moiety shall belong to the Crown. R.S., c. 146, s. 1042.

Application of fines in relation to cruelty to animals.

**1043.** One moiety of every pecuniary penalty recovered with respect to any offence under section five hundred and forty-two or five hundred and forty-three shall be paid over to the corporation of the city, town, village, township, parish, or place in which the offence was committed, and the other moiety, with full costs, to the person who informed and prosecuted for the same or to such other person as to the justices seems proper. R.S., c. 146, s. 1043.

*Costs, Pecuniary Compensation and Restitution of Property.*

Costs and expenses of prosecution may be ordered to be paid by party convicted.

**1044.** Any court by which and any judge under Part XVIII, or magistrate under Part XVI, by whom judgment is pronounced or recorded, upon the conviction of any person for treason or any indictable offence, in addition to such sentence as may otherwise by law be passed, may condemn such person to the payment of the whole or any part

part of the costs or expenses incurred in and about the prosecution and conviction for the offence of which he is convicted, if to such court or judge it seems fit so to do.

2. Such court or judge may include in the amount to be paid such moderate allowance for loss of time as the court or judge, by affidavits or other inquiry and examination, ascertains to be reasonable. Also allowance for loss of time.

3. The payment of such costs and expenses, or any part thereof, may be ordered by the court or judge to be made out of any moneys taken from such person on his apprehension, if such moneys are his own, or may be enforced at the instance of any person liable to pay or who has paid the same in such and the same manner, subject to the provisions of this Act, as the payment of any costs ordered to be paid by the judgment or order of any court of competent jurisdiction in any civil action or proceeding may for the time being be enforced. Source from which payment obtained.

4. In the meantime, until the recovery of such costs and expenses from the person so convicted as aforesaid, or from his estate, the same shall be paid and provided for in the same manner as if this section had not been passed; and any money which is recovered in respect thereof from the person so convicted, or from his estate, shall be applicable to the reimbursement of any person or fund by whom or out of which such costs and expenses have been paid or defrayed. R.S., c. 146, s. 1044. Payable from official fund. Reimbursement.

**1045.** In the case of an indictment or information by a private prosecutor for the publication of a defamatory libel, if judgment is given for the defendant, he shall be entitled to recover from the prosecutor the costs incurred by him by reason of such indictment or information, either by warrant of distress issued out of the said court, or by action or suit as for an ordinary debt. R.S., c. 146, s. 1045. Defendant recovers costs in case of libel.

**1046.** If a person convicted on an indictment for assault, whether with or without battery and wounding, is ordered to pay costs as aforesaid, he shall be liable, unless the said costs are sooner paid, to three months' imprisonment, in addition to the term of imprisonment, if any, to which he is sentenced for the offence, and the court may, by warrant in writing, order the amount of such costs to be levied by distress and sale of the goods and chattels of the offender, and paid to the prosecutor, and the surplus, if any arising from such sale, to the owner. Imprisonment in default of payment of costs on conviction for assault.

2. If such sum is so levied, the offender shall be released from such imprisonment. R.S., c. 146, s. 1046. Release on levy.

**1047.** Any costs ordered to be paid by a court pursuant to the foregoing provisions shall, in case there is no tariff of fees provided with respect to criminal proceedings, be Taxation of costs on lowest scale.

be taxed by the proper officer of the court according to the lowest scale of fees allowed in such court in a civil suit.

Scale in  
civil suits.

2. If such court has no civil jurisdiction, the fees shall be those allowed in civil suits in a superior court of the province according to the lowest scale. R.S., c. 146, s. 1047.

Compensa-  
tion for  
loss of  
property

**1048.** A court on the trial of any person on an indictment may, if it thinks fit, upon the application of any person aggrieved and immediately after the conviction of the offender, award any sum of money, not exceeding one thousand dollars, by way of satisfaction or compensation for any loss of property suffered by the applicant through or by means of the offence of which such person is so convicted.

Award and  
judgment.

2. The amount awarded for such satisfaction or compensation shall be deemed a judgment debt due to the person entitled to receive the same from the person so convicted, and the order for payment of such amount may be enforced in such and the same manner as in the case of any costs aforesaid ordered by the court to be paid. R.S., c. 146, s. 1048.

Compensa-  
tion to  
*bona fide*  
purchasers  
of stolen  
property.

**1049.** When any prisoner has been convicted, either summarily or otherwise, of any theft or other offence, including the stealing or unlawfully obtaining any property, and it appears to the court, by the evidence, that the prisoner sold such property or part of it to any person who had no knowledge that it was stolen or unlawfully obtained, and that money has been taken from the prisoner on his apprehension, the court may, on application of such purchaser and on restitution of the property to its owner, order that out of the money so taken from the prisoner, if it is his, a sum not exceeding the amount of the proceeds of the sale be delivered to such purchaser. R.S., c. 146, s. 1049.

Restitution  
of stolen  
property.

**1050.** If any person who is guilty of any indictable offence in stealing, or knowingly receiving, any property, is indicted for such offence, by or on behalf of the owner of the property, or his executor or administrator, and convicted thereof, or is tried before a judge or justice for such offence under any of the foregoing provisions and convicted thereof, the property shall be restored to the owner or his representative.

Writs of  
restitution.

2. In every such case the court or tribunal before which such person is tried for any such offence, shall have power to award, from time to time, writs of restitution for the said property or to order the restitution thereof in a summary manner.

Restitution  
although  
no  
conviction.

3. The court or tribunal may also, if it sees fit, award restitution of the property taken from the prosecutor, or any witness for the prosecution, by such offence, although

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the

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the person indicted is not convicted thereof, if the jury declares, as it may do, or if, in case the offender is tried without a jury, it is proved to the satisfaction of the court or tribunal by whom he is tried, that such property belongs to such prosecutor or witness, and that he was unlawfully deprived of it by such offence.

4. If it appears before any award or order is made, that any valuable security has been *bona fide* paid or discharged by any person liable to the payment thereof, or being a negotiable instrument, has been *bona fide* taken or received by transfer or delivery, by any person, for a just and valuable consideration, without any notice or without any reasonable cause to suspect that the same had, by any indictable offence, been stolen, or if it appears that the property stolen has been transferred to an innocent purchaser for value who has acquired a lawful title thereto, the court or tribunal shall not award or order the restitution of such security or property.

Restitution not ordered in case of valuable security when rights of third parties intervene.

5. Nothing in this section contained shall apply to the case of any prosecution of any trustee, banker, merchant, attorney, factor, broker or other agent entrusted with the possession of goods or documents of title to goods, for any indictable offence under sections three hundred and fifty-eight or three hundred and ninety of this Act. R.S., c. 146, s. 1050.

Saving.

### *Imprisonment.*

**1051.** Every one who is convicted of any offence not punishable with death, shall be punished in the manner, if any, prescribed by the statute especially relating to such offence. R.S., c. 146, s. 1051.

Offences not capital how punished.

**1052.** Every person convicted of any indictable offence for which no punishment is specially provided, shall be liable to imprisonment for five years.

When no provision. Indictable offence.

2. Every one who is summarily convicted of any offence for which no punishment is specially provided, shall be liable to a penalty not exceeding fifty dollars, or to imprisonment, with or without hard labour, for a term not exceeding six months, or to both. R.S., c. 146, s. 1052.

Summary conviction.

**1053.** Every one who is convicted of an indictable offence not punishable with death, committed after a previous conviction for an indictable offence, is liable to imprisonment for ten years, unless some other punishment is directed by any statute for the particular offence.

Punishment for second offence.

2. In such latter case the offender shall be liable to the punishment directed, and not to any other. R.S., c. 146, s. 1053.

Fixed by statute.

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**1054.**

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Maximum  
term  
shortened.

Minimum  
term.

Cumulative  
punish-  
ments.

Imprison-  
ment less  
than two  
years in  
gaol, etc.

Proviso.  
Where  
other  
sentence at  
same  
sittings, to  
peniten-  
tiary.

Or if term  
in peni-  
tentiary  
running.

Imprison-  
ment in  
common  
gaol in  
Manitoba  
and British  
Columbia.

Imprison-  
ment with  
or without  
hard labour.

**1054.** Every one who is liable to imprisonment for life, or for any term of years, or other term, may be sentenced to imprisonment for any shorter term: Provided that no one shall be sentenced to any shorter term of imprisonment than the minimum term, if any, prescribed for the offence of which he is convicted. R.S., c. 146, s. 1054.

**1055.** When an offender is convicted of more offences than one, before the same court or person at the same sittings, or when any offender, under sentence or undergoing punishment for one offence, is convicted of any other offence, the court or person passing sentence may, on the last conviction, direct that the sentences passed upon the offender for the several offences shall take effect one after another. R.S., c. 146, s. 1055.

**1056.** Every one who is sentenced to imprisonment for a term less than two years shall, if no other place is expressly mentioned, be sentenced to imprisonment in the common gaol of the district, county or place in which the sentence is pronounced, or if there is no common gaol there, then in that common gaol which is nearest to such locality, or in some lawful prison or place of confinement, other than a penitentiary, in which the sentence of imprisonment may be lawfully executed: Provided that,

(a) when any one is sentenced to imprisonment in a penitentiary, and at the same sittings or term of the court trying him is sentenced for one or more other offences to a term or terms of imprisonment less than two years each, he may be sentenced for such shorter terms to imprisonment in the same penitentiary, such sentences to take effect from the termination of his other sentence; and

(b) when any one is sentenced for any offence who is, at the date of such sentence, serving a term of imprisonment in a penitentiary for another offence, he may be sentenced for a term shorter than two years to imprisonment in the same penitentiary, such sentence to take effect from the termination of his existing sentence or sentences;

(c) in the province of Manitoba and the province of British Columbia any one sentenced to imprisonment for a term of less than two years may be sentenced to any one of the common gaols in the province, unless a special prison is prescribed by law. R.S., c. 146, s. 1056; 1909, c. 9, s. 2.

**1057.** Imprisonment in a common gaol, or a public prison, other than a penitentiary or the Central Prison for the province of Ontario, the Andrew Mercer Ontario Reformatory

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formatory for females or any reformatory prison for females in the province of Quebec, shall be with or without hard labour, in the discretion of the court or person passing sentence, if the offender is convicted on indictment, or under the provisions of Parts XVI or XVIII, or, in the province of Saskatchewan or Alberta, before a judge of a superior court, or in the Northwest Territories, before a stipendiary magistrate or in the Yukon Territory, before a judge of the Territorial Court.

2. In other cases such imprisonment may be with hard labour, if hard labour is part of the punishment for the offence of which such offender is convicted, and if such imprisonment is to be with hard labour, the sentence shall so direct. R.S., c. 146, s. 1057.

*Provisions as to Sureties.*

**1058.** Every magistrate under Part XVI and every court of criminal jurisdiction before whom any person is convicted of an offence and is not sentenced to death, shall have power in addition to any sentence imposed upon such person, to require him forthwith to enter into his own recognizances, or to give security to keep the peace, and be of good behaviour for any term not exceeding two years, and that such person in default shall be imprisoned for not more than one year after the expiry of his imprisonment under his sentence, or until such recognizances are sooner entered into or such security sooner given.

2. Any such recognizance may be in form 49. R.S., c. 146, s. 1058.

**1059.** Whenever any person who has been required to enter into a recognizance with sureties, to keep the peace and be of good behaviour, or not to engage in any prize-fight has, on account of his default therein, remained imprisoned for two weeks, the sheriff, gaoler or warden shall give notice, in writing, of the facts, to a judge of a superior court, or to a judge of the county court of the county or district in which said gaol or prison is situate, or, in the cities of Montreal and Quebec, to a judge of the sessions of the peace for the district, or, in the Northwest Territories, to a stipendiary magistrate.

2. Such judge or magistrate may order the discharge of such person, thereupon or at a subsequent time, upon notice to the complainant or otherwise, or may make such other order as he sees fit, respecting the number of sureties, the sum in which they are to be bound and the length of time for which such person may be bound. R.S., c. 146, s. 1059.

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*Whipping.*

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*Whipping.*

Sentence  
of punish-  
ment by  
whipping.

**1060.** Whenever whipping may be awarded for any offence, the court may sentence the offender to be once, twice or thrice whipped, within the limits of the prison, under the supervision of the medical officer of the prison, or if there be no such officer, or if the medical officer be for any reason unable to be present, then, under the supervision of a surgeon or physician to be named by the Minister of Justice, in the case of prisons under the control of the Dominion, and in the case of other prisons by the Attorney General of the province in which such prison is situated.

Number of  
strokes.

Instrument.

When  
whipping to  
take place.

Not on  
female.

2. The number of strokes shall be specified in the sentence; and the instrument to be used for whipping shall be a cat-o'-nine tails unless some other instrument is specified in the sentence.

3. Whenever practicable, every whipping shall take place not less than ten days before the expiration of any term of imprisonment to which the offender is sentenced for the offence.

4. Whipping shall not be inflicted on any female. R.S., c. 146, s. 1060.

*Capital Punishment.*

Punishment  
to be the  
same on  
conviction  
by verdict  
or by  
confession.

Form of  
sentence of  
death.

Sentence  
of death  
to be  
reported  
to Secretary  
of State.

Judge may  
grant  
reprieve in  
certain  
cases.

**1061.** Every one who is indicted as principal or accessory for any offence made capital by any statute, shall be liable to the same punishment, whether he is convicted by verdict or on confession, and this as well in the case of accessories as of principals. R.S., c. 146, s. 1061.

**1062.** In all cases where an offender is sentenced to death, the sentence or judgment to be pronounced against him shall be that he be hanged by the neck until he is dead. R.S., c. 146, s. 1062.

**1063.** In the case of any prisoner sentenced to the punishment of death, the judge before whom such prisoner has been convicted shall forthwith make a report of the case to the Secretary of State, for the information of the Governor General; and the day to be appointed for carrying the sentence into execution shall be such as, in the opinion of the judge, will allow sufficient time for the signification of the Governor's pleasure before such day.

2. If the judge thinks such prisoner ought to be recommended for the exercise of the royal mercy, or if, from the non-decision of any point of law reserved in the case, or from any other cause, it becomes necessary to delay the execution, he, or any other judge of the same court, or any judge who might have held or sat in such court, may, from

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time

time to time, either in term or in vacation, reprieve such offender for such period or periods beyond the time fixed for the execution of the sentence as are necessary for any of the purposes aforesaid.

3. In the Northwest Territories and in the Yukon Territory, when any person is convicted of a capital offence and is sentenced to death the judge or stipendiary magistrate who tried the case shall forthwith forward to the Secretary of State of Canada full notes of the evidence with his report upon the case, and the execution shall be stayed until such report is received and the pleasure of the Governor General therein is communicated to the Commissioner of the Northwest Territories or of the Yukon Territory, as the case may be. R.S., c. 146, s. 1063; 1913, c. 13, s. 31.

Sentence  
of death  
in N.W.T.  
and Yukon.

**1064.** Every one who is sentenced to suffer death shall, after judgment, be confined in some safe place within the prison, apart from all other prisoners; and no person except the gaoler and his servants, the medical officer or surgeon of the prison and a chaplain or a minister of religion, shall have access to any such convict, without permission, in writing, of the court or judge before whom such convict has been tried, or of the sheriff. R.S., c. 146, s. 1064.

Prisoner  
under  
sentence of  
death to  
be confined  
apart.

**1065.** Judgment of death to be executed on any prisoner shall be carried into effect within the walls of the prison in which the offender is confined at the time of execution. R.S., c. 146, s. 1065.

Place of  
execution.

**1066.** The sheriff charged with the execution, and the gaoler and medical officer or surgeon of the prison, and such other officers of the prison and such persons as the sheriff requires, shall be present at the execution. R.S., c. 146, s. 1066.

Persons  
who shall  
be present  
at execution.

**1067.** Any justice for the district, county or place to which the prison belongs, and such relatives of the prisoner or other persons as it seems to the sheriff proper to admit within the prison for the purpose, and any minister of religion who desires to attend, may also be present at the execution. R.S., c. 146, s. 1067.

Persons  
who may  
be present  
at execution.

**1068.** As soon as may be after judgment of death has been executed on the offender, the medical officer or surgeon of the prison shall examine the body of the offender, and shall ascertain the fact of death, and shall sign a certificate thereof, in form 71, and deliver the same to the sheriff.

Certificate  
of death  
by surgeon.

Declaration  
by sheriff  
and gaoler.

2. The sheriff and the gaoler of the prison, and such justices and other persons present, if any, as the sheriff requires or allows, shall also sign a declaration in form 72 to the effect that judgment of death has been executed upon the offender. R.S., c. 146, s. 1068.

Deputies  
may act.

**1069.** The duties imposed upon the sheriff, gaoler, medical officer or surgeon by the three sections last preceding may be, and, in his absence, shall be performed by his lawful deputy or assistant, or other officer or person ordinarily acting for him, or conjointly with him, or discharging the duties of any such officer. R.S., c. 146, s. 1069.

Inquest.

**1070.** A coroner of a district, county or place to which the prison belongs wherein judgment of death is executed on any offender shall, within twenty-four hours after the execution, hold an inquest on the body of the offender.

Identity  
and death.

2. The jury at the inquest shall inquire into and ascertain the identity of the body, and whether judgment of death was duly executed on the offender.

In dupli-  
cate.

3. The inquisition shall be in duplicate, and one of the originals shall be delivered to the sheriff.

Jurors.

4. No officer of the prison and no prisoner confined therein shall, in any case, be a juror on the inquest. R.S., c. 146, s. 1070.

Place of  
burial.

**1071.** The body of every offender executed shall be buried within the walls of the prison within which judgment of death is executed on him, unless the Lieutenant Governor in Council orders otherwise. R.S., c. 146, s. 1071.

Certificate  
to be sent  
to Secretary  
of State  
and  
exhibited  
at prison.

**1072.** Every certificate and declaration, and a duplicate of the inquest required by this Part shall in every case be sent with all convenient speed by the sheriff to the Secretary of State, or to such other officer as is, from time to time, appointed for the purpose by the Governor in Council.

Copies  
exhibited  
in prison.

2. Printed copies of such several instruments shall as soon as possible, be exhibited and shall, for twenty-four hours at least, be kept exhibited on or near the principal entrance of the prison within which judgment of death has been executed. R.S., c. 146, s. 1072.

Omission  
not to  
make  
execution  
illegal.

**1073.** The omission to comply with any provision of the preceding sections of this Part shall not make the execution of judgment of death illegal in any case in which such execution would otherwise have been legal. R.S., c. 146, s. 1073.

**1074.** Except in so far as is hereby otherwise provided, judgment of death shall be carried into effect in the same manner as if the above provisions had not been passed. Forms of procedure in other respects.  
R.S., c. 146, s. 1074.

**1075.** The Governor in Council may, from time to time, make such rules and regulations to be observed on the execution of judgment of death in every prison, as he, from time to time, deems expedient for the purpose, as well of guarding against any abuse in such execution, as of giving greater solemnity to the same, and of making known without the prison walls the fact that such execution is taking place. Rules and regulations as to executions.

2. All such rules and regulations shall be laid upon the tables of both Houses of Parliament within six weeks after the making thereof, or, if Parliament is not then sitting, within fourteen days after the commencement of the next sitting thereof. Laid before Parliament. R.S., c. 146, s. 1075.

#### *Pardon.*

**1076.** The Crown may extend the royal mercy to any person sentenced to imprisonment by virtue of any statute, although such person is imprisoned for non-payment of money to some other person than the Crown. Any person imprisoned under statute although for non-payment of money.

2. Whenever the Crown is pleased to extend the royal mercy to any offender convicted of an indictable offence punishable with death or otherwise, and grants to such offender either a free or conditional pardon, by warrant under the royal sign manual, countersigned by one of the principal Secretaries of State, or by warrant under the hand and seal-at-arms of the Governor General, the discharge of such offender out of custody, in case of a free pardon, and the performance of the condition in the case of a conditional pardon, shall, as to the offence of which he has been convicted, have the same effect as a pardon of such offender under the great seal. Discharge under pardon with performance of conditions if any has effect of pardon under great seal.

3. No free pardon, nor any discharge in consequence thereof, nor any conditional pardon, nor the performance of the condition thereof, in any of the cases aforesaid, shall prevent or mitigate the punishment to which the offender might otherwise be lawfully sentenced on a subsequent conviction for any offence other than that for which the pardon was granted. No effect on punishment for subsequent offence. R.S., c. 146, s. 1076.

**1077.** The Crown may commute the sentence of death passed upon any person convicted of a capital offence to imprisonment in the penitentiary for life, or for any term of years not less than two years, or to imprisonment in any gaol or other place of confinement for any period less than two years, with or without hard labour. Commutation of sentence.

Instrument under hand and seal of Governor, or letter etc., from Secretary of State sufficient for commutation.

2. An instrument under the hand and seal-at-arms of the Governor General, declaring such commutation of sentence, or a letter or other instrument under the hand of the Secretary of State of Canada or of the Under Secretary of State, shall be sufficient authority to any judge or justice, having jurisdiction in such case, or to any sheriff or officer to whom such letter or instrument is addressed, to give effect to such commutation and to do all such things and to make such orders, and to give such directions, as are requisite for the change of custody of such convict, and of his conduct to and delivery at such gaol or place of confinement or penitentiary, and his detention therein, according to the terms on which his sentence has been commuted. R.S., c. 146, s. 1077.

Undergoing sentence equivalent to a pardon.

**1078.** When any offender has been convicted of an offence not punishable with death, and has endured the punishment adjudged, or has been convicted of an offence punishable with death and the sentence of death has been commuted, and the offender has endured the punishment to which his sentence was commuted, the punishment so endured shall, as to the offence whereof the offender was so convicted, have the like effect and consequences as a pardon under the great seal.

No effect on punishment for subsequent offence.

2. Nothing in this section contained, nor the enduring of such punishment, shall prevent or mitigate any punishment to which the offender might otherwise be lawfully sentenced on a subsequent conviction for any other offence. R.S., c. 146, s. 1078.

Release from all further proceedings for same offence.

**1079.** When any person convicted of any offence has paid the sum adjudged to be paid, together with costs, if any, under such conviction, or has received a remission thereof from the Crown, or has suffered the imprisonment awarded for non-payment thereof, or the imprisonment awarded in the first instance, or has been discharged from his conviction by the justice in any case in which such justice may discharge such person, he shall be released from all further or other criminal proceedings for the same cause. R.S., c. 146, s. 1079.

Royal prerogative.

**1080.** Nothing in this Part shall in any manner limit or affect His Majesty's royal prerogative of mercy. R.S., c. 146, s. 1080.

### *Suspended Sentence.*

Suspension of sentence by court when imprisonment not more than two years.

**1081.** In any case in which a person is convicted before any court of any offence punishable with not more than two years' imprisonment, and no previous conviction is proved against him, if it appears to the court before which he is so convicted, that, regard being had to the age, character,

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acter, and antecedents of the offender, to the trivial nature of the offence, and to any extenuating circumstances under which the offence was committed, it is expedient that the offender be released on probation of good conduct, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a recognizance, with or without sureties, and during such period as the court directs, to appear and receive judgment when called upon, and in the meantime to keep the peace and be of good behaviour.

2. Where the offence is punishable with more than two years' imprisonment the court shall have the same power as aforesaid with the concurrence of the counsel acting for the Crown in the prosecution of the offender. When more than two years.

3. The court may, if it thinks fit, direct that the offender shall pay the costs of the prosecution, or some portion of the same, within such period and by such instalments as the court directs. Special directions in such cases.

4. Where one previous conviction and no more is proved against the person so convicted and such conviction took place more than five years before that for the offence in question, or was for an offence not related in character to the offence in question, the court shall have the same power as aforesaid with the concurrence of the counsel acting for the Crown in the prosecution of the offender. Special directions on suspending sentence.

5. The court in suspending sentence may direct that the offender shall be placed on probation for such period and under such conditions as the court may prescribe, and may from time to time increase or decrease such period and change such conditions, and that during such period the offender shall report from time to time as the court may prescribe to any officer that the court may designate, and the offender shall be under the supervision of such officer during the said period, and the officer shall report to the court if the offender is not carrying out the terms on which the sentence is suspended, and thereupon the offender shall be brought again before the court for sentence. Offender under suspended sentence may be placed on probation.

6. The offender may also be ordered to make restitution and reparation to a person or persons aggrieved or injured by the offence for which he was convicted for the actual damage or loss thereby caused, and the offender may while on probation be ordered as one of said conditions to provide for the support of his wife and any other dependent or dependents for which he is liable. R.S., c. 146, s. 1081; 1909, c. 9, s. 2; 1921, c. 25, s. 19. Reparation, etc.

**1082.** The court, before directing the release of an offender under the last preceding section, shall be satisfied that the offender or his surety has a fixed place of abode Conditions of release.

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or

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or regular occupation in the county or place for which the court acts, or in which the offender is likely to live during the period named for the observance of the conditions. R.S., c. 146, s. 1082.

Warrant  
when  
recogniz-  
ance not  
observed.

**1083.** If a court having power to deal with such offender in respect of his original offence or any justice is satisfied by information on oath that the offender has failed to observe any of the conditions of his recognizance, such court or justice may issue a warrant for his apprehension.

On arrest,  
remand for  
judgment.

2. An offender, when apprehended on any such warrant, shall, if not brought forthwith before the court having power to sentence him, be brought before the justice issuing such warrant or before some other justice in and for the same territorial division, and such justice shall either remand him by warrant until the time at which he was required by his recognizance to appear for judgment, or until the sitting of a court having power to deal with his original offence, or admit him to bail, with a sufficient surety, conditioned on his appearing for judgment.

Committal.

3. The offender when so remanded may be committed to a prison, either for the county or place in or for which the justice remanding him acts, or for the county or place where he is bound to appear for judgment; and the warrant of remand shall order that he be brought before the court before which he was bound to appear for judgment, or to answer as to his conduct since his release. R.S., c. 146, s. 1083.

To be  
brought  
before  
court.

### *Remitting Penalties.*

Governor  
in Council  
may remit.

**1084.** The Governor in Council may at any time remit, in whole or in part, any pecuniary penalty, fine or forfeiture imposed by any Act of the Parliament of Canada, whether such penalty, fine or forfeiture is payable to His Majesty or to some other person, or in part to His Majesty and in part to some other person, and whether it is recoverable on indictment, information or summary conviction, or by action or otherwise. R.S., c. 146, s. 1084.

Terms of  
remission.

**1085.** Such remission may, in the discretion of the Governor in Council, be on terms as to the payment of costs or otherwise: Provided that where proceedings have been instituted by private persons costs already incurred shall not be remitted. R.S., c. 146, s. 1085.

Costs.

## PART XXI.

## RENDER BY SURETIES AND RECOGNIZANCES.

*Interpretation.*

**1086.** In the sections of this Part relating exclusively to the province of Quebec, unless the context otherwise requires, "cognizor" includes any number of cognizors in the recognizance whether as principals or sureties. R.S., c. 146, s. 1086.

Definition.  
"Cognizor."

*Division of Part.*

**1087.** Sections ten hundred and eighty-eight to eleven hundred and one inclusive are general in their application.

Certain  
sections  
apply  
only to  
Quebec  
and others  
not to  
Quebec.

2. Sections eleven hundred and two to eleven hundred and twelve inclusive do not apply to the province of Quebec.

3. Sections eleven hundred and thirteen to eleven hundred and nineteen inclusive apply to the province of Quebec only. R.S., c. 146, s. 1087.

*General.*

**1088.** Any surety for any person charged with any indictable offence may, upon affidavit showing the grounds therefor, with a certified copy of the recognizance, obtain from a judge of a superior court or from a judge of a county court having criminal jurisdiction, or in the province of Quebec from a district magistrate, an order in writing under his hand, to render such person to the common gaol of the county where the offence is to be tried.

Render of  
accused by  
surety.

2. The sureties, under such order, may arrest such person and deliver him, with the order, to the gaoler named therein, who shall receive and imprison him in the said gaol, and shall be charged with the keeping of such person until he is discharged by due course of law. R.S., c. 146, s. 1088.

Arrest by  
sureties.

**1089.** The person rendered may apply to a judge of a superior court, or in cases in which a judge of a county court may admit to bail, to a judge of a county court, to be again admitted to bail, who may on examination allow or refuse the same, and make such order as to the number of the sureties and the amount of recognizance as he deems meet.

Bail after  
render.

2. Such order shall be dealt with in the same manner as the first order for bail, and so on as often as the case requires. R.S., c. 146, s. 1089.

Like  
conditions.

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Discharge  
of recogniz-  
ance.

**1090.** On due proof of such render, and certificate of the sheriff, proved by the affidavit of a subscribing witness, that such person has been so rendered, a judge of a superior or county court, as the case may be, shall order an entry of such render to be made on the recognizance by the officer in charge thereof, which shall vacate the recognizance, and may be pleaded or alleged in discharge thereof. R.S., c. 146, s. 1090.

Render of  
accused in  
court by  
sureties.

**1091.** The sureties may bring the person charged as aforesaid into the court at which he is bound to appear, during the sitting thereof, and then, by leave of the court, render him in discharge of such recognizance at any time before trial, and such person shall be committed to gaol, there to remain until discharged by due course of law; but such court may admit such person to bail for his appearance at any time it deems meet. R.S., c. 146, s. 1091.

Sureties  
responsible  
for his  
appearance.

**1092.** The arraignment or conviction of any person charged and bound as aforesaid, shall not discharge the recognizance, but the same shall be effectual for his appearance for trial or sentence, as the case may be.

Committal  
or new  
sureties.

2. The court may nevertheless commit such person to gaol upon his arraignment or trial, or may require new or additional sureties for his appearance for trial or sentence, as the case may be, notwithstanding such recognizance.

Effect.

3. Such commitment shall be a discharge of the sureties. R.S., c. 146, s. 1092.

Right of  
surety to  
render not  
affected.

**1093.** Nothing in the foregoing provisions shall limit or restrict any right which a surety has of taking and rendering to custody any person charged with any such offence, and for whom he is such surety. R.S., c. 146, s. 1093.

Officer to  
prepare  
list of  
persons  
under  
recogniz-  
ance  
making  
default.

**1094.** If any person bound by recognizance for his appearance to prosecute or give evidence on the trial of any indictable offence, or to answer for any common assault, or to articles of the peace, or for whose appearance any other person has become so bound, makes default, the officer of the court by whom estreats are made out, shall prepare a list in writing, specifying the name of every person so making default, and the nature of the offence in respect of which such person, or his surety, was so bound, together with the residence, trade, profession or calling of every such person and surety.

Details in  
list.

2. Such officer shall, in such list, distinguish the principals from the sureties, and shall state the cause, if known, why each such person did not appear, and whether, by reason of the non-appearance of such person, the ends of justice have been defeated or delayed. R.S., c. 146, s. 1094.

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**1095.**

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**1095.** Every such officer shall, before any such recognizance is estreated, lay such list before the judge or one of the judges who presided at the court, or if such court was not presided over by a judge, before two justices who attended at such court, and such judge or justices shall examine such list, and make such order touching the estreating or putting in process any such recognizance as appears just, subject, in the province of Quebec, to the provisions hereinafter contained.

Proceedings  
on forfeited  
recogniz-  
ance.

2. No officer of any such court shall estreat or put in process any such recognizance without the written order of the judge or justices before whom respectively such list has been laid. R.S., s. 146, s. 1095.

No estreat  
without  
order.

**1096.** The like proceedings may be had for enforcing the condition of a recognizance taken under section eleven hundred and twenty-six as might be had for enforcing the condition of a recognizance taken under the Act of the Parliament of the United Kingdom, passed in the fifth year of the reign of His Majesty King George the Second, and chaptered nineteen. R.S., c. 146, s. 1096.

Proceedings  
for  
enforcing  
recogniz-  
ance on  
certiorari.

**1097.** Whenever a person gives security by or is discharged upon recognizance and does not afterwards appear at the time and place mentioned in the recognizance, or whenever the conditions or any of them in any recognizance entered into by an applicant to whom a case stated by a justice under this Act has been delivered, have not been complied with, the justice who took the recognizance, or any justice who is then present, having certified upon the back of the recognizance the non-appearance of the person or the non-compliance with the conditions, as the case may be, may transmit such recognizance to the proper officer in the province appointed by law to receive the same, to be proceeded upon in like manner as other recognizances.

Justices to  
certify  
default.

2. Such certificate shall be *prima facie* evidence of such non-appearance or non-compliance.

Evidence.

3. Such certificate shall be in form 73. R.S., c. 146, Form. s. 1097.

**1098.** The proper officer to whom the recognizance and certificate of default are to be transmitted in the province of Ontario, shall be the clerk of the peace of the county for which such justice is acting.

Clerk of  
the peace  
the proper  
officer in  
Ontario.

2. The court of general sessions of the peace for such county shall, at its then next sitting, order all such recognizances to be forfeited and estreated, and the same shall be enforced and collected in the same manner and subject

The court  
to order  
estreat.

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to

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to the same conditions as any fines, forfeitures or amercements imposed by or forfeited before such court. R.S., c. 146, s. 1098.

Officer in  
British  
Columbia.

**1099.** In the province of British Columbia, such proper officer shall be the clerk of the county court having jurisdiction at the place where such recognizance is taken, and such recognizance shall be enforced and collected in the same manner and subject to the same conditions as any fines, forfeitures or amercements imposed by or forfeited before such county court.

In the other  
provinces.

2. In the other provinces of Canada such proper officer shall be the officer to whom like recognizances have been heretofore accustomed to be transmitted under the law heretofore in force; and such recognizances shall be enforced and collected in the same manner as like recognizances have heretofore been enforced and collected. R.S., c. 146, s. 1099.

Manner of  
estreat.

**1100.** All recognizances taken or entered into under any provision of this Act which are forfeited or in respect to which the conditions of such recognizances, or any of them, have not been complied with, shall be liable to be estreated in the same manner as any forfeited recognizance to appear is by law liable to be estreated by the court before which the principal party thereto was bound to appear. R.S., c. 146, s. 1100.

Proceeds  
paid to  
Finance  
Minister.

**1101.** The sheriff or other officer shall, without delay, pay over all moneys collected under the provisions of this Part by him, to the Minister of Finance, or other authority or person entitled to receive the same. R.S., c. 146, s. 1101.

*Provisions not Applicable to the Province of Quebec.*

Entry of  
fines,  
amercements and  
recognizances on  
a roll.

**1102.** Unless otherwise provided, all fines, issues, amercements and forfeited recognizances, the disposal of which is within the legislative authority of the Parliament of Canada, set, imposed, lost or forfeited before any court of criminal jurisdiction shall, within twenty-one days after the adjournment of such court be fairly entered and extracted on a roll by the clerk of the court, or in case of his death or absence, by any other person, under the direction of the judge who presided at such court, which roll shall be made in duplicate and signed by the clerk of the court, or in case of his death or absence, by such judge. R.S., c. 146, s. 1102.

**1103.** The clerk of the court shall, at the foot of each Affidavit. roll made out as herein directed, make and take an affidavit in the following form, that is to say:

"I, A. B. (*describing his office*), make oath that this roll Form. is truly and carefully made up and examined, and that all fines, issues, amercements, recognizances and forfeitures which were set, lost, imposed or forfeited, at or by the court therein mentioned, and which, in right and due course of law, ought to be levied and paid, are, to the best of my knowledge and understanding, inserted in the said roll; and that in the said roll are also contained and expressed all such fines as have been paid to or received by me, either in court or otherwise, without any wilful discharge, omission, misnomer or defect whatsoever. So help me God."

2. Any justice for the county is hereby authorized to Oath. administer such oath. R.S., c. 146, s. 1103.

**1104.** If such court is a superior court having criminal Filing of jurisdiction, one of such rolls shall be filed with the clerk, rolls in prothonotary, registrar or other proper officer, certain courts.

- (a) in the province of Ontario, of the Supreme Court of Ontario;
  - (b) in the provinces of Nova Scotia, New Brunswick, Alberta and British Columbia, of the Supreme Court of the province;
  - (c) in the province of Prince Edward Island, of the Supreme Court of Judicature of that province;
  - (d) in the provinces of Manitoba and Saskatchewan, of the Court of King's Bench of that province; and
  - (e) in the Yukon Territory, of the Territorial Court;
- on or before the first day of the term next succeeding the court by or before which such fines or forfeitures were imposed or forfeited. R.S., c. 146, s. 1104.

**1105.** If such court is a court of general sessions of the peace, or a county court, one of such rolls shall remain de- Filing of posited in the office of the clerk of such court. rolls in sessions.

2. The other of such rolls aforesaid shall, as soon as the same is prepared, be sent by the clerk of the court making the same, or in case of his death or absence, by such judge as aforesaid, with a writ of *feri facias* and *capias* issued. R.S., c. 146, s. 1105.

**1106.** Such writ shall be authority to the sheriff for Levy proceeding to the immediate levying and recovering of such under writ. fines, issues, amercements and forfeited recognizances, on the goods and chattels, lands and tenements of the several persons named therein, or for taking into custody the Arrest bodies under writ.

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bodies of such persons respectively, in case sufficient goods and chattels, lands or tenements cannot be found, whereof the sums required can be made.

Committal  
to gaol.

2. Every person so taken shall be lodged in the common gaol of the county, until satisfaction is made, or until the court into which such writ is returnable, upon cause shown by the party, as hereinafter mentioned, makes an order in the case and until such order has been fully complied with. R.S., c. 146, s. 1106.

Sale of  
lands by  
sheriff.

**1107.** If upon any writ issued under section eleven hundred and five, the sheriff takes lands or tenements in execution, he shall advertise the same in like manner as he is required to do before the sale of lands in execution in other cases; and no sale shall take place in less than twelve months from the time the writ comes to the hands of the sheriff. R.S., c. 146, s. 1107.

Court may  
forbear to  
order  
estreat.

**1108.** Except in the case of persons bound by recognizance for their appearance, or for whose appearance any other person has become bound to prosecute or give evidence on the trial of any indictable offence, or to answer for any common assault, or to articles of the peace, in every case of default whereby a recognizance becomes forfeited, if the cause of absence is made known to the court in which the person was bound to appear, the court, on consideration of such cause, and considering also, whether, by the non-appearance of such person the ends of justice have been defeated or delayed, may forbear to order the recognizance to be estreated.

Order  
that sum  
forfeited  
be not  
levied.

2. With respect to all recognizances estreated, if it appears to the satisfaction of the judge who presided at such court that the absence of any person for whose appearance any recognizance was entered into, was owing to circumstances which rendered such absence justifiable, such judge may make an order directing that the sum forfeited upon such estreated recognizance shall not be levied.

Minute by  
the judge to  
that effect.

3. The clerk of the court shall, for such purpose, before sending to the sheriff any roll, with a writ of *feri facias* and *capias*, as directed by section eleven hundred and five, submit the same to the judge who presided at the court, and such judge may make a minute on the said roll and writ of any such forfeited recognizances and fines as he thinks fit to direct not to be levied.

Sheriff  
shall  
observe  
minute.

4. The sheriff shall observe the direction in such minute written upon such roll and writ, or endorsed thereon, and shall forbear accordingly to levy any such forfeited recognizance or fine so directed not to be levied. R.S., c. 146, s. 1108.



**1109.** If any person on whose goods and chattels a sheriff, bailiff or other officer is authorized to levy any such forfeited recognizance, gives security to the said sheriff or other officer for his appearance at the return day mentioned in the writ, in the court into which such writ is returnable, then and there to abide the decision of such court, and also to pay such forfeited recognizance, or sum of money to be paid in lieu or satisfaction thereof, together with all such expenses as are adjudged and ordered by the court, such sheriff or officer shall discharge such person out of custody, and if such person does not appear in pursuance of his undertaking, the court may forthwith issue a writ of *feri facias* and *capias* against such person and the surety or sureties of the person so bound as aforesaid. R.S., s. 146, s. 1109.

Discharge from custody on giving security.

Writ of *feri facias* and *capias* on non-appearance.

**1110.** The court, into which any writ of *feri facias* and *capias* issued under the provisions of this Part is returnable, may inquire into the circumstances of the case, and may in its discretion, order the discharge of the whole of the forfeited recognizance, or sum of money paid or to be paid in lieu or satisfaction thereof, and make such order thereon as to such court appears just; and such order shall accordingly be a discharge to the sheriff, or to the party, according to the circumstances of the case. R.S., c. 146, s. 1110.

Discharge of forfeited recognizance.

**1111.** The sheriff, to whom any writ is directed under this Part, shall return the same on the day on which the same is made returnable, and shall state, on the back of the roll attached to such writ, what has been done in the execution thereof; and such return shall be filed in the court into which such return is made. R.S., c. 146, s. 1111.

Return of writ by sheriff.

**1112.** A copy of such roll and return, certified by the clerk of the court into which such return is made, shall be forthwith transmitted to the Minister of Finance, with a minute thereon of any of the sums therein mentioned, which have been remitted by order of the court, in whole or in part, or directed to be forborne, under the authority of section eleven hundred and eight. R.S., c. 146, s. 1112.

Roll and return to Minister of Finance.

*Provisions Applicable only to the Province of Quebec.*

**1113.** Whenever default is made in the condition of any recognizance lawfully entered into or taken in any criminal case, proceeding or matter, in the province of Quebec, within the legislative authority of the Parliament of Canada, so that the penal sum therein mentioned be-

Estreat on default.

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comes

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Minute  
made when  
recogniz-  
ance oral.

comes forfeited and due to the Crown, such recognizance shall thereupon be estreated or withdrawn from any record or proceeding in which it then is, or, where the recognizance has been entered into orally in open court, a certificate or minute of such recognizance, under the seal of the court, shall be made from the records of such court. R.S., c. 146, s. 1113.

Transmis-  
sion of  
recogniz-  
ance, etc.,  
to Superior  
Court.

**1114.** Such recognizance, certificate or minute, as the case may be, shall be transmitted by the court, recorder justice, magistrate or other functionary before whom the cognizor, or the principal cognizor, where there is a surety or sureties, was bound to appear, or to do that by his default to do which the condition of the recognizance is broken, to the Superior Court in the district in which the place where such default was made is included for civil purposes, with the certificate of the court, recorder, justice, magistrate or other functionary as aforesaid, of the breach of the condition of such recognizance, of which, and of the forfeiture to the Crown of the penal sum therein mentioned, such certificate shall be conclusive evidence. R.S., c. 146, s. 1114.

Certificate  
evidence of  
forfeiture.

Judgment  
to be  
entered.

**1115.** The date of the receipt of such recognizance or minute and certificate by the prothonotary of the said court shall be endorsed thereon by him, and he shall enter judgment in favour of the Crown against the cognizor for the penal sum mentioned in such recognizance, and execution may issue therefor after the same delay as in other cases, which shall be reckoned from the time the judgment is entered by the prothonotary of the said court. R.S., c. 146, s. 1115.

Execution  
to issue.

Execution  
on fiat.

**1116.** Such execution shall issue upon fiat or *præcipe* of the Attorney General, or of any person thereunto authorized in writing by him; and the Crown shall be entitled to the costs of execution and to costs on all proceedings in the case subsequent to execution, and to such costs, in the discretion of the court, for the entry of the judgment, as are fixed by any tariff.

Costs.

Imprison-  
ment.

2. The cognizor shall be liable to coercive imprisonment for the payment of the judgment and costs. R.S., c. 146, s. 1116.

Insufficient  
goods or  
lands.

**1117.** When sufficient goods and chattels, lands or tenements cannot be found to satisfy the judgment against a cognizor and the same is certified in the return to the writ of execution or appears by the report of distribution, a warrant of commitment addressed to the sheriff of the

district may issue upon the fiat or *præcipe* of the Attorney General, or of any person thereunto authorized in writing by him, and such warrant shall be authority to the sheriff to take into custody the body of the cognizor so in default and to lodge him in the common gaol of the district until satisfaction is made, or until the court which issued such warrant, upon cause shown as hereinafter mentioned, makes an order in the case and such order has been fully complied with. Arrest of cognizor.

2. Such warrant shall be returned by the sheriff on the day on which it is made returnable and the sheriff shall state in his return what has been done in execution thereof. Return of warrant.

3. On petition of the cognizor, of which notice shall be given to the clerk of the Crown of the district, the court may inquire into the circumstances of the case and may in its discretion order the discharge of the amount for which he is liable or make such order with respect thereto and to his imprisonment as may appear just, and such order shall be carried out by the sheriff. Discharge of cognizor. Order may be made. R.S., c. 146, s. 1117.

**1118.** When a person has been arrested in any district for an offence committed within the limits of the province of Quebec, and a justice has taken recognizances from the witnesses heard before him or another justice, for their appearance at the next session or term of the court of competent criminal jurisdiction, before which such person is to undergo his trial there to testify and give evidence on such trial and such recognizances have been transmitted to the office of the clerk of such court, the said court may proceed on the said recognizances in the same manner as if they had been taken in the district in which such court is held. Process on recognizance. R.S., c. 146, s. 1118.

**1119.** Whenever any sum forfeited by the non-performance of the conditions of a recognizance cannot for any reason be recovered in the manner provided in the last four preceding sections, the same shall be recoverable, with costs, by action in any court having jurisdiction in civil cases to the amount, at the suit of the Attorney General of Canada or of Quebec, or other person or officer authorized to sue for the Crown; and in any such action it shall be held that the person suing for the Crown is duly empowered so to do, and that the conditions of the recognizance were not performed, and that the sum therein mentioned is, therefore, due to the Crown, unless the defendant proves the contrary. Recovery by action.

2. The cognizor for the recovery of the judgment in any such action shall be liable to coercive imprisonment in the same manner as a surety is in the case of judicial suretyship in civil matters. Imprisonment. R.S., c. 146, s. 1119.

## PART XXII.

## EXTRAORDINARY REMEDIES.

Detention  
of person  
accused on  
inquiry as  
to legality  
of imprison-  
ment.

**1120.** Whenever any person in custody charged with an indictable offence has taken proceedings before a judge or criminal court having jurisdiction in the premises by way of *certiorari*, *habeas corpus* or otherwise, to have the legality of his imprisonment inquired into, such judge or court may, with or without determining the question, make an order for the further detention of the person accused, and direct the judge or justice, under whose warrant he is in custody, or any other judge or justice, to take any proceedings, hear such evidence, or do such further act as in the opinion of the court or judge may best further the ends of justice. R.S., c. 146, s. 1120; 1908, c. 18, s. 14.

Conviction  
affirmed on  
appeal, or  
warrant  
not to be  
held invalid  
when.

**1121.** No conviction or order made on summary conviction which has been affirmed, or affirmed and amended, in appeal, shall be quashed for want of form, or be removed by *certiorari* into any superior court, and no warrant or commitment shall be held void by reason of any defect therein, provided it is therein alleged that the defendant has been convicted, and there is a good and valid conviction to sustain the same. R.S., c. 146, s. 1121.

*Certiorari*  
not to lie  
when appeal  
is taken.

**1122.** No writ of *certiorari* shall be allowed to remove any conviction or order had or made before any justice if the defendant has appealed from such conviction or order to any court to which an appeal from such conviction or order is authorized by law, or shall be allowed to remove any conviction or order made upon such appeal. R.S., c. 146, s. 1122.

Conviction,  
etc., or  
warrant  
under  
Juvenile  
Offenders  
Part.

**1123.** No conviction under Part XVII shall be quashed for want of form or be removed by *certiorari* or otherwise into any court of record; and no warrant of commitment under the said Part shall be held void by reason of any defect therein, if it is therein alleged that the person has been convicted and there is a good and valid conviction to sustain the same. R.S., c. 146, s. 1123.

Conviction,  
etc., or  
warrant in  
other cases.

**1124.** No conviction or order made by any justice, and no warrant for enforcing the same, shall, on being removed by *certiorari*, be held invalid for any irregularity, informality or insufficiency therein, if the court or judge before which or whom the question is raised, upon perusal of the depositions, is satisfied that an offence of the nature described in the conviction, order or warrant, has been committed, over which such justice has jurisdiction, and that the punishment imposed is not in excess of that

which might have been lawfully imposed for the said offence: Provided that the court or judge, where so satisfied, shall, even if the punishment imposed or the order made is in excess of that which might lawfully have been imposed or made, have the like powers in all respects to deal with the case as seems just as are by section seven hundred and fifty-four conferred upon the court to which an appeal is taken under the provisions of section seven hundred and forty-nine.

Rectifying  
error.

2. Any statement which, under this Act or otherwise, would be sufficient if contained in a conviction, shall also be sufficient if contained in an information, summons, order or warrant. R.S., c. 146, s. 1124.

Sufficiency  
of state-  
ment.

**1125.** The following matters amongst others shall be held to be within the provisions of the last preceding section:—

Irregulari-  
ties within  
last section.

- (a) The statement of the adjudication, or of any other matter or thing, in the past tense instead of in the present;
- (b) The punishment imposed being less than the punishment by law assigned to the offence—stated in the conviction or order or to the offence—which appears by the depositions to have been committed;
- (c) The omission to negative circumstances, the existence of which would make the Act complained of lawful, whether such circumstances are stated by way of exception or otherwise in the section under which the offence is laid, or are stated in another section.

2. Nothing in this section contained shall be construed to restrict the generality of the wording of the last preceding section. R.S., c. 146, s. 1125.

But  
generality  
not  
restricted.

**1126.** The court having authority to quash any conviction, order or other proceeding by or before a justice may prescribe by general order that no motion to quash any conviction, order or other proceeding by or before a justice, brought before such court by *certiorari*, shall be entertained unless the defendant is shown to have entered into a recognizance with one or more sufficient sureties, before a justice or justices of the county or place within which such conviction or order has been made, or before a judge or other officer, as may be prescribed by such general order, or to have made a deposit to be prescribed in like manner, with a condition to prosecute such writ of *certiorari* at his own costs and charges, with effect, without any wilful or affected delay, and if ordered so to do, to pay the person in whose favour the conviction, order or

General  
order for  
security by  
recogniz-  
ance.

Or deposit.

other proceeding is affirmed, his full costs and charges to be taxed according to the course of the court where such conviction, order or proceeding is affirmed. R.S., c. 146, s. 1126.

No  
*procedendo*  
necessary  
on discharge  
of motion  
to quash.

**1127.** If a motion or rule to quash a conviction, order or other proceeding is refused or discharged, it shall not be necessary to issue a writ of *procedendo*, but the order of the court refusing or discharging the application shall be a sufficient authority for the registrar or other officer of the court forthwith to return the conviction, order or proceeding to the court or justice from which or whom they were removed, and for proceedings to be taken thereon for the enforcement thereof, as if a *procedendo* had issued, which shall forthwith be done. R.S., c. 146, s. 1127.

Conviction,  
etc., not  
set aside  
for want of  
proof of  
order in  
council.

**1128.** No order, conviction or other proceeding made by any justice or stipendiary magistrate shall be quashed or set aside, and no defendant shall be discharged, by reason of any objection that evidence has not been given of a proclamation or order of the Governor in Council, or of any rules, regulations, or by-laws made by the Governor in Council in pursuance of a statute of Canada, or of the publication of such proclamation, order, rules, regulations or by-laws in the *Canada Gazette*.

Judicial  
notice.

2. Such proclamation, order, rules, regulations and by-laws and the publication thereof shall be judicially noticed. R.S., c. 146, s. 1128.

Conviction  
not to be  
set aside  
for defect  
in form.

**1129.** Whenever it appears by any conviction made by a justice or stipendiary magistrate that the defendant has appeared and pleaded, and the merits have been tried, and the defendant has not appealed against the conviction, where an appeal is allowed, or if appealed against, the conviction has been affirmed, such conviction shall not afterwards be set aside or vacated in consequence of any defect of form whatever, but the construction shall be such a fair and liberal construction as will be agreeable to the justice of the case. R.S., c. 146, s. 1129.

Proceedings  
under  
Summary  
Trials  
Part not  
quashed  
for want  
of form  
or held  
void.

**1130.** No conviction, sentence or proceeding under Part XVI shall be quashed for want of form; and no warrant of commitment upon a conviction under the said Part shall be held void by reason of any defect therein, if it is therein alleged that the offender has been convicted and there is a good and valid conviction to sustain the same. R.S., c. 146, s. 1130.

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**1131.**

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**1131.** If an application is made to quash a conviction, order or other proceeding made or had by or before a justice or stipendiary magistrate, on the ground that such justice or stipendiary has exceeded his jurisdiction, the court or judge to which or whom the application is made, may, as a condition of quashing the conviction, order or other proceeding, if the court or judge thinks fit so to do, provide that no action shall be brought against the justice or stipendiary by or before whom such conviction, order or other proceeding was made or had, or against any officer acting thereunder or under any warrant issued to enforce any such conviction or order. R.S., c. 146, s. 1131.

No action  
against  
official  
when  
conviction  
quashed.

**1132.** No action or other proceeding, warrant, judgment, order or other instrument or writing, authorized by any provisions of Part XII relating to Part III or necessary to carry out its provisions, shall be held void or be allowed to fail for defect of form. R.S., c. 146, s. 1132.

Proceedings  
relating to  
Part III  
not void  
for defect  
of form.

## PART XXIII.

### RETURNS.

**1133.** Every justice shall, quarterly, on or before the second Tuesday in each of the months of March, June, September and December in each year, make to the clerk of the peace or other proper officer of the court having jurisdiction in appeal, as herein provided, a return in writing, under his hand, of all convictions made by him, and of the receipt and application by him of the moneys received from the defendants.

Returns  
concerning  
convictions  
and  
moneys  
received.

2. Such return shall include all convictions and other matters not included in some previous return, and shall be in form 75.

Extent of  
return.

3. If two or more justices are present, and join in the conviction, they shall make a joint return.

Joint  
return.

4. Every justice, to whom any such moneys are afterwards paid, shall make a return of the receipt and application thereof, to the court having jurisdiction in appeal as hereinbefore provided, which shall be filed by the clerk of the peace or the proper officer of such court with the records of his office.

Supple-  
mentary  
return.

5. In the province of Prince Edward Island such return shall be made to the clerk of the court of assize of the county in which the convictions are made, and on or before the fourteenth day next before the sitting of the said court next after such convictions are so made.

Time in  
Prince  
Edward  
Island  
for return.

Return in  
Nipissing.

6. Every such return shall be made in the district of Nipissing, in the province of Ontario, to the clerk of the peace for the country of Renfrew, in the said province. R.S. c. 146, s. 1133.

Neglect or  
false  
return or  
taking  
unlawful  
fees.

**1134.** Every justice, before whom any conviction takes place, or who receives any such moneys, who neglects or refuses to make such return thereof, or wilfully makes a false, partial or incorrect return, or wilfully receives a larger amount of fees than by law he is authorized to receive, and every justice who upon or in connection with, or under colour or pretense of, any information, complaint or judicial proceeding or inquiry had or taken before him, wilfully exacts, receives, appropriates or retains any fees, moneys or payments which he is not by law authorized to receive or to be paid, shall incur a penalty of eighty dollars, together with costs of suit, in the discretion of the court, which may be recovered by any person who sues for the same by action of debt or information in any court of record in the province in which such return ought to have been or is made.

Penalty.

Disposition  
of penalty.

2. One moiety of such penalty shall belong to the person suing, and the other moiety to His Majesty for the public uses of Canada.

Saving.

3. Nothing in this section shall have the effect of preventing any person aggrieved from prosecuting, by indictment, any justice, for any offence, the commission of which would have subjected him to indictment immediately before the first day of July, one thousand eight hundred and ninety-three. R.S., c. 146, s. 1134.

Return by  
justice of  
certificates  
under  
Part III.

**1135.** When any certificate is granted under section one hundred and eighteen of this Act, the justice granting it shall forthwith make a return thereof to the proper officer in the county, district or place in which such certificate has been granted for receiving returns under this Part.

Penalty for  
default.

2. On default of making such return within ninety days after a certificate is granted, the justice shall be liable, on summary conviction, to a penalty of not more than ten dollars. R.S. c. 146, s. 1135.

Monthly  
returns  
under  
Part III.

**1136.** Every commissioner under Part III of this Act shall make a monthly return to the Secretary of State of Canada of all weapons delivered to him, and by him detained under Part III. R.S., c. 146, s. 1136.

Posting up  
returns.

**1137.** The clerk of the peace of the district or county to whom returns under this Part are made, or the proper officer, other than the clerk of the peace, to whom such re-



turns are made, shall, within seven days after the adjournment of the then next ensuing general or quarter sessions, or of the term or sitting of such other court having jurisdiction in appeal as aforesaid, cause the said returns to be posted up in the court house of the district or county, and also in a conspicuous place in the office of such clerk of the peace, or other proper officer, for public inspection, and the same shall continue to be so posted up and exhibited until the end of the next ensuing general or quarter sessions of the peace, or for the term or sitting of such other court as aforesaid.

2. For every schedule so made and exhibited by such clerk or officer, he shall be allowed such fee as is fixed by competent authority.

3. Such clerk of the peace or other officer of each district or county, within twenty days after the end of each general or quarter sessions of the peace, or the sitting of such court as aforesaid, shall transmit to the Minister of Finance a true copy of all such returns made within his district or county. R.S. c. 146, s. 1137.

**1138.** No return purporting to be made by any justice under this Act shall be vitiated by the fact of its including by mistake, any convictions or orders had or made before him in any matter over which any provincial legislature has exclusive jurisdiction, or with respect to which he acted under the authority of any provincial law. R.S., c. 146, s. 1138.

**1139.** Every clerk of the peace or other proper officer shall transmit to the Dominion Bureau of Statistics a quarterly return of the names of offenders, the offences and punishments mentioned in convictions transmitted to him under Part XVII of this Act. R.S., c. 146, s. 1139; 1918, c. 43, s. 3.

## PART XXIV.

### LIMITATION OF ACTIONS.

#### *Prosecution for Crimes.*

**1140.** No prosecution for an offence against this Act, or action for penalties or forfeiture, shall be commenced (a) after the expiration of three years from the time of its commission if such offence be

(i) treason, except treason by killing His Majesty, or where the overt act alleged is an attempt to injure the person of His Majesty—section seventy-four,

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(ii)

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- (ii) treasonable offences—section seventy-eight,
  - (iii) any offence against Part VII relating to the fraudulent marking of merchandise, or
  - (iv) any offence relating to or arising out of the location of land which was paid for in whole or in part by scrip or was granted upon certificates issued to half-breeds in connection with the extinguishment of Indian title;
- Two years.** (b) after the expiration of two years from its commission if such offence be
- (i) a fraud upon the government—section one hundred and fifty-eight,
  - (ii) a corrupt practice in municipal affairs—section one hundred and sixty-one,
  - (iii) unlawfully solemnizing marriage—section three hundred and eleven; or
- One year.** (c) after the expiration of one year from its commission if such offence be
- (i) opposing reading of Riot Act and continuing together after proclamation—section ninety-two,
  - (ii) refusing to deliver weapon to justice—section one hundred and twenty-six.
  - (iii) coming armed near public meeting—section one hundred and twenty-seven,
  - (iv) lying in wait near public meeting—section one hundred and twenty-eight,
- Seduction.** (v) seduction of a girl above sixteen and under eighteen—section two hundred and eleven,
- (vi) seduction under promise of marriage—section two hundred and twelve,
- (vii) seduction of a ward or employee—section two hundred and thirteen,
- (viii) parent or guardian procuring defilement of girl—section two hundred and fifteen, subsection one,
- (ix) unlawfully defiling women, procuring, etc.—section two hundred and sixteen,
- (x) householders permitting defilement of girls on their premises—section two hundred and seventeen; or
- Six months.** (d) after the expiration of six months from its commission if the offence be
- (i) unlawful drilling—section ninety-nine, subsections one, two and three,
  - (ii) being unlawfully drilled—section ninety-nine, subsection four,
  - (iii) having possession of offensive weapons for purposes dangerous to the public peace—section one hundred and fifteen,

- (iv) proprietor of newspaper publishing advertisement offering reward for recovery of stolen property—section one hundred and eighty-three, paragraph (d); or
- (e) after the expiration of three months from its commission if the offence be Three months.
  - (i) cruelty to animals—section five hundred and forty-two and five hundred and forty-three,
  - (ii) railways and vessels violating provisions relating to conveyance of cattle—section five hundred and forty-four,
  - (iii) refusing peace officer or constable admission—section five hundred and forty-five; or
- (f) after the expiration of one month from its commission if the offence be improper use of offensive weapons under sections one hundred and sixteen and one hundred and eighteen to one hundred and twenty-four inclusive. One month.

2. No person shall be prosecuted, under the provisions Six days. of section seventy-four or seventy-eight of this Act, for any overt act of treason expressed or declared by open and advised speaking unless information of such overt act, and of the words by which the same was expressed or declared, is given upon oath to a justice within six days after the words are spoken and a warrant for the apprehension of the offender is issued within ten days after such information is given. R.S., c. 146, s. 1140; 1921, c. 25, s. 20; 1925, c. 38, s. 28.

**1141.** No action, suit or information shall be brought or laid for any penalty or forfeiture under any Act, except Penalty or forfeiture by action within two years. within two years after the cause of action arises or after the offence for which such penalty or forfeiture is imposed is committed, unless the time is otherwise limited by any Act or by-law. R.S., c. 146, s. 1141.

**1142.** In the case of any offence punishable on summary conviction, if no time is specially limited for making any complaint, or laying any information, in the Act or law relating to the particular case, the complaint shall be made, or the information laid, within six months from the time when the matter of the complaint or information arose, except in the Northwest Territories and the Yukon Territory, in all which Territories the time within which such complaint may be made or such information laid shall be twelve months from the time when the matter of the complaint or information arose. 1907, c. 8, s. 2.

*Actions against Persons Administering the Criminal Law.*

Time and  
place of  
action.

**1143.** Every action and prosecution against any person for anything purporting to be done in pursuance of any Act of the Parliament of Canada relating to criminal law, shall, unless otherwise provided, be laid and tried in the district, county or other judicial division, where the act was committed, and not elsewhere, and shall not be commenced except within six months next after the act committed. R.S., c. 146, s. 1143.

Notice in  
writing.

**1144.** Notice in writing of such action and of the cause thereof, shall be given to the defendant one month at least before the commencement of the action. R.S., c. 146, s. 1144.

General  
issue.

**1145.** In any such action the defendant may plead the general issue, and give the provisions of this title and the special matter in evidence at any trial had thereupon. R.S., c. 146, s. 1145.

Tender or  
payment  
into court.

**1146.** No plaintiff shall recover in any such action if tender of sufficient amends is made before such action brought, or if a sufficient sum of money is paid into court by or on behalf of the defendant after such action brought. R.S., c. 146, s. 1146.

Judgment  
if action  
not brought  
in time, etc.

**1147.** If such action is commenced after the time limited as aforesaid for bringing the same or is brought or the venue laid in any other place than as aforesaid, a verdict shall be found or judgment shall be given for the defendant; and thereupon, or if the plaintiff becomes non-suit, or discontinues any such action after issue joined, or if upon demurrer or otherwise judgment is given against the plaintiff, the defendant shall, in the discretion of the court, recover his full costs as between solicitor and client, and shall have the like remedy for the same as any defendant has by law in other cases.

Costs.

No costs  
unless  
action  
approved.

2. Although a verdict or judgment is given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial is had certifies his approval of the action. R.S., c. 146, s. 1147.

Other  
protecting  
Acts  
remain.

**1148.** Nothing herein shall prevent the effect of any Act in force in any province of Canada, for the protection of justices or other officers from vexatious actions for things purporting to be done in the performance of their duty. R.S., s. 146, s. 1148.

**1149.** Every action brought against any commissioner under Part III of this Act or any justice, constable, peace officer or other person, for anything done in pursuance of the said Part, shall be commenced within six months next after the alleged cause of action arises; and the venue shall be laid or the action instituted in the district or county or place where the cause of action arose; and the defendant may plead the general issue and give this Act and the special matter in evidence. Actions under Part III, six months. Venue.

2. If such action is brought after the time limited, or the venue is laid or the action brought in any other district, county or place than in this section prescribed, the judgment or verdict shall be given for the defendant; and in such case, or if the judgment or verdict is given for the defendant on the merits, or if the plaintiff becomes non-suited or discontinues after appearance is entered, or has judgment rendered against him on demurrer, the defendant shall be entitled to recover double costs. R.S., c. 146, s. 1149. Judgment if action not brought in time, etc. Double costs.

**1150.** All actions for penalties arising under the provisions of section eleven hundred and thirty-four shall be commenced within six months next after the cause of action accrues, and the same shall be tried in the district, county or place wherein such penalties have been incurred; and if a verdict or judgment passes for the defendant, or the plaintiff becomes non-suit, or discontinues the action after issue joined, or if, upon demurrer or otherwise, judgment is given against the plaintiff, the defendant shall, in the discretion of the court, recover his costs of suit, as between solicitor and client, and shall have the like remedy for the same as any defendant has by law in other cases. R.S., c. 146, s. 1150. Actions for penalties under section 1134 within six months.

**1151.** No action or proceeding shall be commenced or had against a justice for enforcing a conviction, order or determination affirmed, amended or made by the court under section seven hundred and sixty-five. R.S., c. 146, s. 1151. Costs. Enforcing conviction under section 765, no action.

## PART XXV.

### FORMS.

**1152.** The several forms in this Part, varied to suit the case, or forms to the like effect, shall be deemed good, valid and sufficient in the cases thereby respectively provided for; and may, when made for one class of officials, be varied so as to apply to any other class having the same jurisdiction. As in this Part may be varied as to official.

Seals not  
necessary.

2. It shall not be necessary for any justice to attach or affix any seal to any proceedings or process the forms for which are contained in this Part. R.S., c. 146, s. 1152; 1921, c. 52, s. 1.

## FORM 1.

(Section 629.)

*Information to obtain a Search Warrant.*

Canada, }  
Province of , }  
County of . }

The information of A. B., of in the said county (*yeoman*), taken this day of in the year before me,

who says that (*describe things to be searched for and offence in respect of which search is made*), and that he has reasonable grounds for believing that the said goods and chattels, or some part of them are concealed in the (*dwelling-house, etc.*), of C. D., of in the said district (*or county, etc.*) (*here add the grounds of belief, whatever they may be*): Wherefore (*he*) prays that a search warrant may be granted to (*name of person*) to search the said (*dwelling-house, etc.*), for the said goods and chattels.

Sworn before me the day and year first above mentioned.

J. P. (*name of County*).

1921, c. 25, s. 24, form 1.

## FORM 2.

(Section 630.)

*Warrant to Search.*

Canada, }  
Province of , }  
County of . }

To the peace officers in the said county.

Whereas it appears on the oath of A. B., of , that there are reasonable grounds for believing that (*describe things to be searched for and offence in respect of which search is made*) are concealed in at

This is, therefore, to authorize and require you between the hours of (*as the justice shall direct*) to enter into the said premises, and to search for the said things, and to bring the same before me or some other justice.

Dated this day of , in the year

J. P. (*name of County*).

1921, c. 25, s. 24, form 2.

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FORM

FORM 2A.

(Section 629 (2).)

Canada, }  
Province of , }  
County of . }

Whereas proof upon oath has this day been made before me, that the name of J. S. to the within warrant subscribed is of the handwriting of the justice within mentioned, I do therefore hereby authorize W. T. who brings me this warrant and all other persons to whom this warrant was originally directed or by whom it may be lawfully executed, and also all peace officers of the said county to execute the same within the said county.

J. P. (name of County).

1921, c. 25, s. 24, form 2A.

FORM 3.

(Section 654.)

*Information and Complaint for an Indictable Offence.*

Canada, }  
 province of ,  
 County of .

The information and complaint of C. D. of \_\_\_\_\_, (yeoman), taken this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before the undersigned who saith that (*etc., stating the offence*).  
(us)

Sworn before (*me*), the day and year first above mentioned.

J. P., (name of County.)

1921, c. 25, s. 24, form 3.

FORM 4.

(Section 656.)

*Warrant to Apprehend a Person Charged with an Indictable Offence Committed on the High Seas or Abroad.*

*For offences committed on the high seas the warrant may be the same as in ordinary cases, but describing the offence to have been committed 'on the high seas, out of the body of any district or county of Canada and within the jurisdiction of the Admiralty of England.'*

*For offences committed abroad for which the parties may be indicted in Canada, the warrant also may be the same as in ordinary cases, but describing the offence to have been committed ‘on land out of Canada, to wit: at \_\_\_\_\_ in the Kingdom of \_\_\_\_\_, or, at*

in the Island of , in the West Indies

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Indies, or at \_\_\_\_\_, in the East Indies.' or as the  
*case may be.*  
 1921, c. 25, s. 24, form 4.

## FORM 5.

(Section 658.)

*Summons to a Person charged with an Indictable Offence.*

Canada, }  
 Province of }  
 County of }

To A. B., of \_\_\_\_\_ (labourer):

Whereas you have this day been charged before the undersigned for that you on \_\_\_\_\_, at \_\_\_\_\_, (*stating shortly the offence*): These are therefore to command you, in His Majesty's name, to appear before (*me*) on \_\_\_\_\_ at \_\_\_\_\_ o'clock in the (fore) noon, at \_\_\_\_\_, or before such other justice for the said county as shall then be there, to answer to the said charge, and to be further dealt with according to law.

Given under (*my*) hand, this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_.

J. P., (*name of County.*)

1921, c. 25, s. 24, form 5.

## FORM 6.

(Section 659.)

*Warrant in the first instance to apprehend a Person charged with an Indictable Offence.*

Canada, }  
 Province of }  
 County of }

To the peace officers in the said county.

Whereas A. B., of \_\_\_\_\_, (*labourer*), has this day been charged upon oath before the undersigned, for that he. on \_\_\_\_\_, at \_\_\_\_\_ did (*etc., stating shortly the offence*): These are, therefore, to command you, in His Majesty's name, forthwith to apprehend the said A. B., and to bring him before (*me*) or some other justice in and for the said county, to answer unto the said charge, and to be further dealt with according to law.

Given under (*my*) hand, this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_.

J. P., (*name of County.*)

1921, c. 25, s. 24, form 6.



## FORM 7.

(Section 660.)

*Warrant in lieu of or when the Summons is disobeyed.*

|             |   |
|-------------|---|
| Canada,     | } |
| Province of |   |
| County of   |   |

To the peace officers in the said county.

Whereas on the                      day of                      , A.D.                      ,  
 A. B., of                      , hereinafter called the accused, was  
 charged before (*me* or *us*,) the undersigned for that (*etc.*,  
*as in the summons*); and whereas I (*or he*) (*or we or they*)  
 did then issue (*my, our, his* or *their*) summons to the said  
 accused, commanding him, in His Majesty's name, to ap-  
 pear before (*me*) on                      day the                      day of

A.D.                      , at                      o'clock in the (fore)  
 noon, at                      , or before such other justice as should  
 then be there, to answer to the said charge and to be fur-  
 ther dealt with according to law; and whereas the said  
 accused has neglected to be or appear at the time and place  
 appointed in and by the said summons, although it has  
 now been proved to (*me*) upon oath that the said sum-  
 mons was duly served upon the said accused, or it appears  
 that the said summons cannot be served: These are there-  
 fore to command you in His Majesty's name, forthwith to  
 apprehend the said accused, and to bring him before (*me*)  
 or some other justice in and for the said county, to answer  
 the said charge, and to be further dealt with according to  
 law.

Given under (*my*) hand, this                      day of                      ,  
 in the year                      .

J. P., (*name of County.*)

1921, c. 25, s. 24, form 7.

## FORM 8.

(Section 662.)

*Endorsement in Backing a Warrant.*

|             |   |
|-------------|---|
| Canada,     | } |
| Province of |   |
| County of   |   |

Whereas proof upon oath has this day been made before  
 me, that the name of J. S. to the within warrant subscribed,  
 is of the handwriting of the justice within mentioned I do  
 therefore hereby authorize W. T. who brings to me this  
 warrant and all other persons to whom this warrant was  
 originally directed, or by whom it may be lawfully exe-  
 cuted, and also peace officers of the said county, to execute  
 the same within the said county.

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Given  
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Given under (*my*) hand, this                      day of  
in the year

J. P., (*name of County.*)

1921, c. 25, s. 24, form 8.

#### FORM 9.

(Section 665.)

*Warrant to convey before a Justice of another County.*

Canada,                      }  
Province of                      , }  
County of                      . }

To the peace officers in the said county.

Whereas information upon oath was this day made before the undersigned that A. B., of                      , on the day of                      , in the year                      , at                      , in the county of                      (*state the charge*).

And whereas I have taken the deposition of X. Y. as to the said offence.

And whereas the charge is of an offence committed in the county of                      .

This is to command you to convey the said (*name of accused*), of                      , before some justice of the last-mentioned county, near the above place, and to deliver to him this warrant and the said deposition.

Dated this                      day of                      , in the year                      .

J. P., (*name of County.*)

1921, c. 25, s. 24, form 9.

#### FORM 10.

(Section 666.)

*Receipt to be given to the Constable by the Justice for the County in which the Offence was committed.*

Canada,                      }  
Province of                      , }  
County of                      . }

I, J. L., hereby certify that W. T., peace officer of the county of                      has, on this                      day of                      , in the year                      , by virtue of and in obedience to a warrant of J. S., a justice in and for the county of                      , produced before me one A. B., charged before the said J. S. with having (*etc., stating shortly the offence*) and delivered him into the custody of                      , by my direction to answer to the said charge, and further to be dealt with according to law, and has also delivered unto me the said warrant, together with the information (*if any*) in that behalf, and the deposition (*s*) of C. D. (*and of*                      ), in the said warrant mentioned, and that he has also proved to me, upon oath, the handwriting of                      the

the said J. S., subscribed to the same.

Dated the day and year first above mentioned.

J. P., (name of County.)

1921, c. 25, s. 24, form 10.

FORM 11.

(Section 671.)

### Summons to a Witness.

Canada, }  
Province of , }  
County of . }

To E. F., of \_\_\_\_\_, (*labourer*):

Whereas information has been laid before the undersigned that A.B. (*etc., as in the summons or warrant against the accused*), and it has been made to appear to me that you are likely to give material evidence for (*the prosecution or for the accused*): These are therefore to require you to appear before the presiding justice, on next, at o'clock in the (fore) noon, at to testify what you know concerning the said charge so made against the said A. B.

Given under my hand, this                      day of                      ,  
in the year                      .

J. P., (name of County.)

1921, c. 25, s. 24, form 11.

FORM 12.

(Section 673.)

*Warrant when a Witness has not obeyed the Summons,  
or has avoided service.*

Canada, }  
Province of , }  
County of . }

To the peace officers in the said county.

Whereas information having been laid before \_\_\_\_\_, a justice, in and for the said county, \_\_\_\_\_ that A. B. (etc., *as in the summons*); and it having been made to appear to (me) upon oath that E. F., of \_\_\_\_\_ (*labourer*), hereinafter called witness, was likely to give material evidence for (*the prosecution or the accused*), (I) duly issued (*my*) summons to the said witness, requiring him to appear before the presiding justice on \_\_\_\_\_, at \_\_\_\_\_, to testify what he knows respecting the said charge; and

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whereas

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whereas proof has this day been made upon oath before (me) of such summons having been duly served upon the said witness (or that the said witness has avoided service thereof); and whereas the said witness has neglected to appear at the time and place appointed by the said summons, and no just excuse has been offered for such neglect: These are therefore to command you to bring the said witness before the presiding justice on \_\_\_\_\_ at \_\_\_\_\_ o'clock in the (fore) noon, at \_\_\_\_\_, as shall then be there, to testify what he knows concerning the said charges.

Given under (my) hand, this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_.

J. P., (name of County.)

1921, c. 25, s. 24, form 12.

### FORM 13.

(Sections 674 and 842.)

#### *Conviction for Contempt.*

Canada, }  
Province of }  
County of }

Be it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, in the county of \_\_\_\_\_ E. F., hereinafter called defaulter, is convicted before me, for that he did not attend before me to give evidence on the trial of a certain charge against one A. B. of theft (or as the case may be), although duly summoned or subpoenaed (or bound by recognizance to appear and give evidence in that behalf) (as the case may be) and has not shown before me any sufficient excuse for such default, and I adjudge the said defaulter, for his said offence, to be imprisoned in the common gaol of the county of \_\_\_\_\_, at \_\_\_\_\_, for the space of \_\_\_\_\_, there to be kept with (or without) hard labour (as may be authorized and determined, and in case a fine is also intended to be imposed, then proceed) and I also adjudge that the said defaulter do forthwith pay a fine of \_\_\_\_\_ dollars, and in default of payment, that the said fine, with the cost of collection, be levied by distress and sale of the goods and chattels of the said defaulter.

Given under my hand the day and year first above mentioned.

J. P. or Judge.

1921, c. 25, s. 24, form 13.

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FORM

## FORM 14.

(Section 675.)

*Warrant for a Witness in the First Instance.*

|             |   |
|-------------|---|
| Canada,     | } |
| Province of |   |
| County of   |   |

To the peace officers in the said county.

Whereas information has been laid before the undersigned that (*etc., as in the summons*); and it having been made to appear to (*me*) upon oath, that E. F. of , (*labourer*), hereinafter called witness, is likely to give material evidence for the prosecution (*or for the accused*), and that it is probable that the said witness will not attend to give evidence unless compelled to do so: These are therefore to command you to bring the said witness before the presiding justice on at o'clock in the (fore) noon, at , to testify what he knows concerning the said charge.

Given under my hand this day of ,  
in the year .

J. P., (*name of County.*)

1921, c. 25, s. 24, form 14.

## FORM 15.

(Section 677.)

*Warrant when a Witness has not obeyed a Subpœna.*

|             |   |
|-------------|---|
| Canada,     | } |
| Province of |   |
| County of   |   |

To the peace officers in the said county.

Whereas information having been laid before , a justice in and for the said county, that A. B. (*etc., as in the summons*); and there being reason to believe that E. F., of , (*labourer*), hereinafter called witness, was likely to give material evidence for (*the prosecution or for the accused*), a writ of subpœna was issued by order of , judge of (*name of court*) to the said witness, requiring him to appear before the presiding justice on at to testify what he knows respecting the said charge; and whereas proof has this day been made upon oath before (*me*) of such writ of subpœna having been duly served upon the said witness; and whereas the said witness has neglected to appear at the time and place

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appointed

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appointed by the said writ of subpoena, and no just excuse has been offered for such neglect: These are therefore to command you to bring the said witness before the presiding justice on \_\_\_\_\_ at \_\_\_\_\_ o'clock in the (fore) noon, at \_\_\_\_\_, to testify what he knows concerning the said charge so made against the said A. B.

Given under (my) hand this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_.

\_\_\_\_\_, J. P., (name of County.)  
1921, c. 25, s. 24, form 15.

## FORM 16.

(Section 678.)

*Warrant of Commitment of a Witness for refusing to be Sworn or to give Evidence.*

Canada, }  
Province of }  
County of . }

To the peace officers in the said county of, and to the keeper of the common gaol at \_\_\_\_\_, in the said county.

Whereas A. B. was lately charged before \_\_\_\_\_, a justice in and for the said county, for that (*etc., as in the summons*); and it having been made to appear to (me) upon oath that E. F., of \_\_\_\_\_, hereinafter called witness, was likely to give material evidence (*for the prosecution or for the accused*), (I) duly issued (my) summons to the said witness, requiring him to appear before the presiding judge on \_\_\_\_\_, at \_\_\_\_\_, to testify what he knows concerning the said charge; and the said witness now appearing by virtue of the said warrant, to testify as aforesaid, and being required to make oath or affirmation as a witness in that behalf, (*now refuses so to do or being duly sworn as a witness now refuses to answer certain questions concerning the premises which are now here put to him, and more particularly the following \_\_\_\_\_ or refuses or neglects to produce certain documents which he is required to produce, to wit; or refuses to sign his depositions*) without offering any just excuse for such refusal or neglect: These are therefore to command you, to take and safely convey the said witness to the common gaol at \_\_\_\_\_, in the county aforesaid, and there to deliver him to the keeper thereof, together with this precept: And I do hereby command you, the said keeper, to receive the said witness into  
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your custody in the said common gaol, and him there safely keep for the space of                      days, for the said contempt, unless in the meantime he consents to be examined, and to answer concerning the premises (*or as the case may be*); and for your so doing, this shall be your sufficient warrant.

Given under (*my*) hand, this                      day of                      ,  
in the year                      .

J. P., (*name of County.*)

1921, c. 25, s. 24, form 16.

### FORM 17.

(Section 679.)

#### *Warrant remanding a Prisoner.*

|             |   |                                                                                                                                            |
|-------------|---|--------------------------------------------------------------------------------------------------------------------------------------------|
| Canada      | } | To the Peace Officers in the<br>said City or County and the<br>Keeper of the Common<br>Gaol at                      in the<br>said County. |
| Province of |   |                                                                                                                                            |
| County of   |   |                                                                                                                                            |
| City of     |   |                                                                                                                                            |
| To Wit:     |   |                                                                                                                                            |

You are hereby commanded forthwith to convey to the said common gaol the person or persons this day charged before me and remanded as in the following schedule set forth:—

|                 |          |              |
|-----------------|----------|--------------|
| Person charged. | Offence. | Remanded to. |
|-----------------|----------|--------------|

And you the said keeper are hereby commanded to receive the said person or persons into your custody in said gaol, to be there safely kept until the day when his or her remand shall expire as aforesaid and then to have such person or persons before the presiding justice at                      at the hour of                      o'clock in the                      noon of the said day, there to answer further to said charge and to be further dealt with according to law, unless you shall be otherwise ordered in the meantime.

Given under my hand this                      day of                      19                      ,  
at the                      aforesaid.

J. P., (*name of County.*)

1921, c. 25, s. 24, form 17.

## FORM 18.

(Section 681.)

*Recognizance of Bail discharging Remand on an Adjournment of Examination.*

|             |   |
|-------------|---|
| Canada,     | } |
| Province of |   |
| County of   |   |

Be it remembered that on the                      day of                      ,  
 in the year                      , A. B., of                      , (labourer), L. M.,  
 of                      , (grocer), and N. O., of                      , (butcher),  
 personally came before                      and severally acknowl-  
 edged themselves to owe to our Lord the King, the several  
 sums following, that is to say: The said A. B. the sum of                      ,  
 and the said L. M., and N. O., the sum of                      ,  
 each, to be made and levied of their  
 several goods and chattels, lands and tenements respect-  
 ively, to the use of our said Lord the King, if he, the said  
 A. B. fails in the condition endorsed (or hereunder written).

Taken and acknowledged the day and year first above  
 mentioned, at                      before me.

J. P., (name of County.)

The condition of the within (or above) written recogni-  
 zance is such that whereas the within bounden A. B. was  
 this day (or on                      last past) charged before  
 for that (*etc., as in the warrant*); and whereas the examina-  
 tion of the witnesses for the prosecution in this behalf is  
 adjourned until the                      day of                      : If therefore  
 the said A. B. appears before the presiding judge on the  
 said                      day of                      , at                      o'clock in the  
 (fore) noon, to answer (*further*) to the said charge, and to  
 be further dealt with according to law, the said recognizance  
 to be void, otherwise to stand in full force and virtue.  
 1921, c. 25, s. 24, form 18.



## FORM 19.

(Section 682.)

*Deposition of a Witness.*

Canada, }  
 Province of , }  
 County of . }

The deposition of X. Y., of , taken before the undersigned, this day of , in the year , at (or after notice to C. D., hereinafter called the accused, who stands committed for ) in the presence and hearing of the accused, who stands charged that (*state the charge*). The said deponent saith on his (*oath or affirmation*) as follows: (*Insert deposition as nearly as possible in words of witness.*)

(*If depositions of several witnesses are taken at the same time, they may be taken and signed as follows*):

The depositions of X. of , Y. of , Z. of etc., taken in the presence and hearing of the accused, who stands charged that

The deponent X (*on his oath or affirmation*) says as follows:

The deponent Y. (*on his oath or affirmation*) says as follows:

The deponent Z. (*on his oath, etc., etc.*)  
 (*The signature of the justice may be appended as follows*):

The depositions of X., Y., Z., etc., written on the several sheets of paper, to the last of which my signature is annexed, were taken in the presence and hearing of the accused, and signed by the said X., Y., Z., etc., respectively in his presence. In witness whereof I have in the presence of the accused signed my name.

Witness:

J. P., (*name of County*.)

1921, c. 25, s. 24, form 19.

## FORM 20.

(Section 684.)

*Statement of the Accused.*

Canada, }  
 Province of , }  
 County of . }

A. B., hereinafter called the accused, stands charged before the undersigned , this day of , in the year , for that the accused, on , at (*etc., as in the captions of the depositions*);

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*depositions*); and the said charge being read to the accused, and the witnesses for the prosecution, C. D. and E. F., being severally examined in his presence, the accused is now addressed by me as follows:

"Having heard the evidence, do you wish to say anything in answer to the charge? You are not bound to say anything, but whatever you do say will be taken down in writing, and may be given in evidence against you at your trial. You must clearly understand that you have nothing to hope from any promise or favour, and nothing to fear from any threat which may have been held out to you to induce you to make any admission or confession of guilt, but whatever you now say may be given in evidence against you upon your trial, notwithstanding such promise or threat." Whereupon the accused says as follows: (*Here state whatever the prisoner says and in his very words, as nearly as possible. Get him to sign it if he will.*)

A. B.

Taken before me, at \_\_\_\_\_, the day and year first above mentioned.

J. P., (*name of County.*)

1921, c. 25, s. 24, form 20.

#### FORM 21.

(Section 688.)

*Form of Recognizance where the Prosecutor requires the Justice to bind him over to prosecute after the charge is dismissed.*

Canada, }  
Province of }  
County of }

Whereas C. D., hereinafter called the accused, was charged before me upon the information of E. F., hereinafter called the informant, that the accused (*state the charge*), and upon the hearing of the said charge, I discharged the accused, and the informant desires to prefer an indictment against the accused respecting the said charge, and has required me to bind him over to prefer and prosecute such an indictment at (*here describe the next practicable sitting of the court at which the person discharged would be tried if committed.*)

The undersigned, the informant, hereby binds himself to perform the following obligation, that is to say, that he will prefer and prosecute an indictment respecting the

said charge against the accused at (*as above*). And the informant acknowledges himself bound to forfeit to the Crown the sum of \$            in case he fails to perform the said obligation.

E. F.

Taken before me.

J. P., (*name of County.*)

1921, c. 25, s. 24, form 21.

FORM 22.

(Section 690.)

*Warrant of Commitment.*

|                       |                                     |                              |
|-----------------------|-------------------------------------|------------------------------|
| Canada,               | } To the Peace Officers of the said |                              |
| Province of . . . . . |                                     | City or County of and to the |
| . . . . .             |                                     | Keeper of the Common Gaol    |
| County of . . . . .   |                                     | at . . . . . in the          |
| City of . . . . .     | } said County.                      |                              |
| To wit:               |                                     |                              |

Whereas . . . . .  
was this day charged before me with having on the . . . . .  
day of . . . . . 19 . . . . , in the City or County aforesaid,  
unlawfully . . . . .  
. . . . .  
. . . . .  
. . . . .

And whereas on a preliminary examination on said charge  
the said accused was this day committed by me for trial.  
These are therefore to command you the said Peace  
Officers to take the said accused and h . . . . safely convey  
to the said Common Gaol and there deliver h . . . . to the  
Keeper thereof, with this precept. And I do hereby com-  
mand you the said Keeper to receive the said accused into  
your custody, in the said Common Gaol and there safely  
keep h . . . . until he shall be thence delivered by the due  
course of law.

Given under my hand this . . . . . day of  
. . . . . 19 . . . .

J. P., (*name of County.*)

1921, c. 25, s. 24, form 22.

## FORM 23.

(Section 692.)

*Recognizance to Prosecute.*

|             |   |
|-------------|---|
| Canada,     | } |
| Province of |   |
| County of   |   |

Be it remembered that on the            day of            , in the year            , C. D. of            , in the            of            , in the county aforesaid, (*farmer*), hereinafter called the prosecutor personally came before me, and acknowledged himself to owe to our Lord the King, the sum of            to be made and levied of his goods and chattels, lands and tenements, to the use of our said Lord the King, if the prosecutor fails in the condition endorsed (*or* hereunder written).

Taken and acknowledged before me the day and year first above mentioned.

J. P., (*name of County.*)

*Condition to Prosecute.*

The condition of the within (*or* above) written recognizance is such that whereas one A. B. hereinafter called the accused was this day charged before me, J. S., a justice within mentioned, for that (*etc., as in the caption of the depositions*); if therefore, he, the prosecutor, appears at the court by which the accused is or shall be tried\* and there duly prosecutes such charge then the said recognizance to be void, otherwise to stand in full force and virtue. 1921, c. 25, s. 24, form 23.

## FORM 24.

(Section 692.)

*Recognizance to Prosecute and Give Evidence.*

(*Same as the last form, to the asterisk\*, and then thus*): And there duly prosecute such charge against the said A. B. the accused for the offence aforesaid, and gives evidence thereon, as well to the jurors who shall then inquire into the said offence, as also to them who shall pass upon the trial of the accused, then the said recognizance to be void, or else to stand in full force and virtue. 1921, c. 25, s. 24, form 24.

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FORM

## FORM 25.

(Section 692.)

*Recognizance to Give Evidence.*

(Same as form 23 to the asterisk,\* and then thus): And there gives such evidence as he knows upon the charge to be then and there preferred against the accused for the offence aforesaid, then the said recognizance to be void, otherwise to remain in full force and virtue.

1921, c. 25, s. 24, form 25.

## FORM 26.

(Section 694.)

*Commitment of a Witness for Refusing to Enter into the Recognizance.*

|             |   |
|-------------|---|
| Canada,     | } |
| Province of |   |
| County of   |   |

To the peace officers in the said county and to the keeper of the common gaol of the said county at,  
in the county aforesaid.

Whereas A. B., hereinafter called the accused, was lately charged before the undersigned for that (*etc., as in the summons to the witness*), and it having been made to appear to (*me*), upon oath that E. F., of , hereinafter called the witness, was likely to give material evidence for the prosecution, a summons was duly issued to the witness, requiring him to appear before the presiding justice on

, at to testify what he knows concerning the said charge; and the witness now appearing before (*me*) (or being brought before (*me*) by virtue of a warrant in that behalf to testify as aforesaid), has been now examined before (*me*) touching the premises, but being by (*me*) required to enter into a recognizance conditioned to give evidence against the accused, now refuses so to do: These are therefore to command you to take and safely convey the witness to the common gaol at , in the county aforesaid, and there deliver him to the said keeper thereof, together with this precept: And I do hereby command you, the said keeper, to receive the witness into your custody in the said common gaol, there to imprison and safely keep him until after the trial of the accused for the offence aforesaid, unless in the meantime the witness duly enters into such recognizance as aforesaid, in the sum of

before some one justice for the said county, conditioned in

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the usual form to appear at the court by which the accused is or shall be tried, and there to give evidence upon the said charge.

Given under my hand this                      day of                      ,  
in the year                      .

J. P., (*name of County.*)

1921, c. 25, s. 24, form 26.

#### FORM 27.

(Section 694.)

*Order Discharging Witness, when Accused Discharged.*

Canada,                      }  
Province of                      ,  
County of                      . }

To the keeper of the common gaol at                      , in the  
county aforesaid.

Whereas by order dated the                      day of                      ,  
A.D.                      , reciting that A. B., hereinafter called the  
accused, was charged before (*me*) for a certain offence  
therein mentioned, and that E. F., hereinafter called the  
witness, having appeared before (*me*) and being examined  
as a witness for the prosecution on that behalf, refused to  
enter into recognizance to give evidence against the accused,  
and I therefore thereby committed the witness to your cus-  
tody, and required you safely to keep him until after the  
trial of the accused for the offence aforesaid, unless in the  
meantime he should enter into such recognizance as afore-  
said; and whereas the accused has been since discharged,  
and it is therefore not necessary that the witness should be  
detained longer in your custody: These are therefore to  
order and direct you the said keeper to discharge the wit-  
ness out of your custody, as to the said commitment.

Given under my hand this                      day of                      ,  
in the year                      .

J. P., (*name of County.*)

1921, c. 25, s. 24, form 27.

## FORM 28.

(Section 696.)

*Recognizance of Bail.*

Canada,  
Province of  
County of

}  
,  
}

Be it remembered that on the                      day of                      , in the year                      , A. B. of                      , (*labourer*), herein-after called the accused, L. M. of                      , (*grocer*), and N. O. of                      , (*butcher*), personally came before (*us*) the undersigned, (*two*) justices for the said county, and severally acknowledged themselves to owe to our Lord the King, the several sums following, that is to say: the said A. B., the sum of                      , and the said L. M. and N. O. the sum of                      , each to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lord the King, if he, the accused, fails in the condition endorsed (*or* hereunder written).

Taken and acknowledged the day and year first above mentioned, at                      , before us.

J. P., (*name of County.*)

The condition of the within (*or* above) written recognizance is such that whereas the accused was this day charged before (*us*), the justices within mentioned for that (*etc., as in the warrant*); if, therefore, the accused appears at the next superior court of criminal jurisdiction (*or* court of general or quarter sessions of the peace) to be holden in and for the said county, and there surrenders himself into the custody of the keeper of the common gaol (*or* lock-up house), and pleads to such indictment as may be found against him by the grand jury, for and in respect to the charge aforesaid, and takes his trial upon the same, and does not depart the said court without leave, then the said recognizance to be void, otherwise to stand in full force and virtue.

1921, c. 25, s. 24, form 28.

## FORM 29.

(Section 698.)

*Warrant of Deliverance when Bail given for accused already committed.*

Canada,  
Province of  
County of

}  
,  
}

To the keeper of the common gaol of the said county at                      , in the said county.

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Whereas

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Whereas A. B., late of \_\_\_\_\_, (labourer), has before (us), (two) justices in and for the said county, entered into his own recognizance, and found sufficient sureties for his appearance at the next superior court of criminal jurisdiction (or court of general or quarter sessions of the peace), to be holden in and for the said county, to answer our Lord the King, for that (*etc., as in the commitment*), for which he was taken and committed to your said common gaol: These are therefore to command you, in His Majesty's name, that if the said A. B. remains in your custody in the said common gaol for the said cause, and for no other, you shall forthwith suffer him to go at large.

Given under our hands, this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_.

J. P., (*name of County.*)

1921, c. 25, s. 24, form 29.

#### FORM 30.

(Section 704.)

##### *Gaoler's Receipt to the Constable for the Prisoner.*

I hereby certify that I have received from W. T., constable, of the said county, the body of A. B., together with a warrant under the hand of J. S., justice for the said county, and that the said A. B. was sober, (*or as the case may be*), at the time he was delivered into my custody.

*Keeper of the common gaol of the said county.*

1921, c. 25, s. 24, form 30.

#### FORM 31.

(Section 727.)

##### *Conviction imposing a Penalty to be Levied by Distress and in Default of Sufficient Distress, by Imprisonment.*

Canada, }  
Province of }  
County of }

Be it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, at \_\_\_\_\_, in the said county, A.B., hereinafter called the defaulter, is convicted before the undersigned, for that the defaulter (*etc., stating the offence, and the time and place when and where committed*), and I adjudge the defaulter for his said offence to forfeit and pay the sum of \$ \_\_\_\_\_ (*stating the penalty, and also the compensation, if any*), to be paid and applied according to law, and also to pay to the said C. D. the sum of \_\_\_\_\_,

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for



for costs; and if the said several sums are not paid forthwith, (or on or before the                      of                      next), \*I order that the same be levied by distress and sale of the goods and chattels of the defaulter, and in default of sufficient distress, \*I adjudge the defaulter to be imprisoned in the common gaol of the said county, at                      , in the said county (there to be kept at hard labour, *if the Act or law authorizes this, and it is so adjudged*) for the term of                      unless the said several sums and all costs and charges of the said distress and of the commitment and of the conveying of the defaulter to the said gaol are sooner paid.

Given under my hand the day and year first above mentioned, at .

J. P., (name of County.)

*\*Or when the issuing of a distress warrant would be ruinous to the defendant and his family, or it appears he has no goods whereon to levy a distress, then instead of the words between the asterisks \* \* say, 'inasmuch as it is now made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the defaulter and his family,' (or 'that the defaulter has no goods or chattels whereon to levy the said sums by distress').*  
1921, c. 25, s. 24, form 31.

FORM 32.

(Section 727.)

*Conviction imposing a Penalty, and in Default of Payment, Imprisonment.*

Canada, }  
Province of , }  
County of . }

Be it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, at \_\_\_\_\_, in the said county, A. B., hereinafter called the defaulter, is convicted before the undersigned, for that he the defaulter (*etc., stating the offence, and the time and place when and where it was committed*), and I adjudge the defaulter for his said offence to forfeit and pay the sum of \_\_\_\_\_ (*stating the penalty and the compensation, if any*) to be paid and applied according to law; and also to pay to the said C. D. the sum of \_\_\_\_\_ for costs; and if the said several sums are not paid forthwith (or, on or before \_\_\_\_\_ next), I adjudge the defaulter to be imprisoned in the common gaol of the said county, at \_\_\_\_\_, in the said county (and there to be \_\_\_\_\_)

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be kept at hard labour, *if the Act or law authorizes this, and it is so adjudged*) for the term of \_\_\_\_\_, unless the said sums and the costs and charges of the commitment and of the conveying of the defaulter to the said common gaol are sooner paid.

Given under my hand, the day and year first above mentioned.

J. P., (*name of County.*)

1921, c. 25, s. 24, form 32.

### FORM 33.

(Section 727.)

*Conviction when the Punishment is by Imprisonment, etc.*

Canada, }  
Province of }  
County of }

Be it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, at \_\_\_\_\_, in the said county, A. B., hereinafter called the defaulter, is convicted before the undersigned, for that he the defaulter (*etc., stating the offence, and the time and place when and where it was committed*); and I adjudge the defaulter for his said offence to be imprisoned in the common gaol of the said county, at \_\_\_\_\_, in the county aforesaid, (and there to be kept at hard labour, *if the Act or law authorizes this, and it is so adjudged*) for the term of \_\_\_\_\_; and that the defaulter do pay to the said C. D. the sum of \_\_\_\_\_, for costs, and if the said sum for costs is not paid forthwith (*or on or before* \_\_\_\_\_ next), then\* I order that the said sum be levied by distress and sale of the goods and chattels of the defaulter; and in default of sufficient distress in that behalf,\* that the defaulter be imprisoned in the said common gaol (and kept there at hard labour, *if the Act or law authorizes this, and it is so adjudged*) for the term of \_\_\_\_\_, to commence at and from the expiration of the term of imprisonment aforesaid, unless the said sum for costs and the costs and charges of the commitment and of the conveying of the defaulter to gaol are sooner paid.

Given under my hand, the day and year first above mentioned, at \_\_\_\_\_.

J. P., (*name of County.*)

*\*Or when the issuing of a distress warrant would be ruinous to the defendant and his family, or it appears that he has no goods whereon to levy a distress, then, instead*

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of

of the words between the asterisks\*\* say, 'inasmuch as it is now made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the defaulter and his family,' (or, 'that the defaulter has no goods or chattels whereon to levy the said sum for costs by distress').

1921, c. 25, s. 24, form 33.

### FORM 34.

(Section 727.)

*Order for Payment of Money to be Levied by Distress, and in Default of Distress, Imprisonment.*

|             |   |
|-------------|---|
| Canada,     | } |
| Province of |   |
| County of   |   |

Be it remembered that on \_\_\_\_\_, a complaint was made before the undersigned, for that (*stating the facts entitling the complainant to the order, with the time and place when and where they occurred*), and now at this day, to wit, on \_\_\_\_\_, at \_\_\_\_\_, the parties aforesaid appear before me the said justice (or the said C. D. appears before me the said justice), but the said A. B., hereinafter called the defaulter, although duly called, does not appear by himself, his counsel, solicitor or agent, and it is now satisfactorily proved to me on oath that the defaulter was duly served with the summons in this behalf, which required him to be and appear here on this day before me or such justice, as should now be here, to answer the said complaint, and to be further dealt with according to law; and now having heard the matter of the said complaint, I do adjudge the defaulter to pay to the said C. D. the sum of \_\_\_\_\_ forthwith (or on or before \_\_\_\_\_ next, or as the Act or law requires), and also to pay to the said C. D. the sum of \_\_\_\_\_ for costs; and if the said several sums are not paid forthwith (or on or before \_\_\_\_\_ next) then,\* I hereby order that the same be levied by distress and sale of the goods and chattels of the defaulter and in default of sufficient distress in that behalf\* I adjudge the defaulter to be imprisoned in the common gaol of the said county, at \_\_\_\_\_, (and there kept at hard labour, if the Act or law authorizes this, and it is so adjudged) for the term of \_\_\_\_\_, unless the said several sums and all costs and charges of the said distress and of the commitment and of the conveying of the defaulter to the said common gaol are sooner paid.

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Given  
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Given under my hand, this                      day of                      ,  
in the year                      .

J. P., (*name of County.*)

*\*Or when the issuing of a distress warrant would be ruinous to the defendant and his family, or it appears that he has no goods whereon to levy a distress, then, instead of the words between the asterisks\*\*say, "inasmuch as it is now made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the defaulter and his family," (or "that the defaulter has no goods or chattels whereon to levy the said sums by distress").*  
1921, c. 25, s. 24, form 34.

# FORM 35.

(Section 727).

## Order for Payment of Money, and in Default of Payment, Imprisonment.

Canada,                      }  
Province of                      , }  
County of                      . }

Be it remembered that on                      , a complaint was made before the undersigned, for that (*stating the facts entitling the complainant to the order, with the time and place when and where they occurred*), and now on this day, to wit on                      , at                      , the parties aforesaid appear before me (or the said C. D. appears before me but the said A. B., hereinafter called the defaulter, although duly called, does not appear by himself, his counsel, solicitor or agent, and it is now satisfactorily proved to me upon oath that the defaulter was duly served with the summons in this behalf which required him to appear here this day before me, or such justice for the said county, as should now be here, to answer to the said complaint, and to be further dealt with according to law), and now having heard the matter of the said complaint, I do adjudge the defaulter to pay to the said C. D. the sum of                      forthwith (*or on or before                      next, or as the Act or law requires*), and also to pay to the said C. D. the sum of                      for costs; and if the said several sums are not paid forthwith (*or on or before                      next*), then the defaulter to be imprisoned in the common gaol of the said county at                      , (there to be kept at hard labour, *if the Act or law authorizes this, and it is so adjudged*) for the term of                      unless the said                      several

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several sums and the costs and charges of the commitment and of the conveying of the defaulter to the said common gaol are sooner paid.

Given under my hand, this                      day of                      ,  
A.D.                      .

J. P., (*name of County*.)

1921, c. 25, s. 24, form 35.

# FORM 36.

(Section 727.)

*Order for any other Matter where the Disobeying of it is punishable with Imprisonment.*

Canada,                      }  
Province of                      , }  
County of                      . }

Be it remembered that on                      , complaint was made before the undersigned, for that (*stating the facts entitling the complainant to the order, with the time and place where and when they occurred*); and now on this day, to wit, on                      , at                      , the parties aforesaid appear before me (*or the said C. D. appears before me but the said A. B., hereinafter called the defaulter, although duly called, does not appear by himself, his counsel, solicitor or agent, and it is now satisfactorily proved to me, upon oath, that the defaulter was duly served with the summons in this behalf, which required him to appear here this day before me, or such justice for the said county, as should now be here, to answer to the said complaint and to be further dealt with according to law*); and now having heard the matter of the said complaint, I do adjudge the defaulter to (*here state the matter required to be done*), and if, upon a copy of the minute of this order being served upon the defaulter, either personally or by leaving the same for him at his last or most usual place of abode, he neglects or refuses to obey the same, in that case I adjudge the defaulter, for such his neglect or disobedience, to be imprisoned in the common gaol of the said county, at                      , (there to be kept at hard labour, *if the Act or law authorizes this, and it is so adjudged*) for the term of                      , unless the said order is sooner obeyed, and I do also adjudge the defaulter to pay to the said C. D. the sum of                      for costs, and if the said sum for costs is not paid forthwith (*or on or before next*), I order the same to be levied by distress and sale of the goods and chattels of the defaulter, and in default of sufficient distress in that behalf I adjudge the defaulter to be imprisoned in the said common gaol (there to be kept at hard labour, *if the Act or law authorizes this, and*

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it

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it is so adjudged) for the space of \_\_\_\_\_, to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs is sooner paid.

Given under my hand, this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_.

J. P., (name of County.)

1921, c. 25, s. 24, form 36.

#### FORM 37.

(Section 730.)

#### *Form of Order of Dismissal of an Information or Complaint.*

Canada, }  
Province of \_\_\_\_\_, }  
County of \_\_\_\_\_.

Be it remembered that on \_\_\_\_\_, information was laid (or complaint was made) before the undersigned for that (etc., as in the summons of the defendant) and now at this day, to wit, on \_\_\_\_\_, at \_\_\_\_\_, (if at any adjournment insert here: "to which day the hearing of this case was duly adjourned, of which the said C. D., hereinafter called the complainant had due notice,") both the said parties appear before me in order that I should hear and determine the said information (or complaint) (or the said A. B. appears before me, but the complainant, although duly called, does not appear); [whereupon the matter of the said information (or complaint) being by me duly considered, it manifestly appears to me that the said information (or complaint) is not proved, and] (if the informant or complainant does not appear, these words may be omitted), I do therefore dismiss the same, and do adjudge that the complainant do pay to the said A. B. the sum of \_\_\_\_\_, for costs; and if the said sum for costs is not paid forthwith (or on or before \_\_\_\_\_), I order that the same be levied by distress and sale of the goods and chattels of the complainant, and in default of sufficient distress in that behalf, I adjudge the complainant to be imprisoned in the common gaol of the said county of \_\_\_\_\_, at \_\_\_\_\_ (and there kept at hard labour, if the Act or law authorizes this, and it is so adjudged) for the term of \_\_\_\_\_, unless the said sum for costs, and all costs and charges of the said distress and of the commitment and of the conveying of the complainant to the said common gaol are sooner paid.

Given under my hand, this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_.

J. P., (name of County.)

1921, c. 25, s. 24, form 37.

## FORM 38.

(Section 730.)

*Form of Certificate of Dismissal.*

Canada,                     }  
 Province of                ,  
 County of                    .

I hereby certify that an information (or complaint) preferred by C. D. against A. B. for that (*etc., as in the summons*) was this day considered by me, and was by me dismissed (with costs).

Dated at               , this               day of               , in the year

J. P., (*name of County.*)

1921, c. 25, s. 24, form 38.

## FORM 39.

(Section 741.)

*Warrant of Distress upon a Conviction imposing a Penalty.*

Canada,                     }  
 Province of                ,  
 County of                    .

To the peace officers in the said county.

Whereas A. B., late of               , (*labourer*), hereinafter called the defaulter, was on this day (or on               last past) duly convicted before               , a justice, in and for the said county               , for that (*stating the offence, as in the conviction*), and it was thereby adjudged that the defaulter should for such his offence, forfeit and pay (*etc., as in the conviction*), and should also pay to the said C. D. the sum of               , costs; and that if the said several sums were not paid forthwith or within               , the same should be levied by distress and sale of the goods and chattels of the defaulter, and also that the defaulter, in default of sufficient distress, should be imprisoned in the common gaol of the said county, at               and there kept at hard labour (*if the conviction so adjudges*) for the space of               , unless the said several sums and all costs and charges of the said distress, and of the commitment and conveying of the defaulter to the said common gaol were sooner paid; \*And whereas the defaulter has not paid the same or any part thereof: These are, therefore, to command you in His Majesty's name forthwith to make distress of the goods and chattels of the defaulter; and if within               days next hereafter, the said sums, together with the reasonable charges of taking and keeping the distress, are not paid, then to sell the said

goods and chattels, and to pay the money arising from such sale unto me; and if no such distress is found, then to certify such fact unto me.

Given under my hand, this                      day of                      ,  
in the year                      .

J. P., (*name of County.*)

1921, c. 25, s. 24, form 39.

#### FORM 40.

(Section 741.)

#### *Warrant of Distress upon an Order for the Payment of Money.*

Canada,                      }  
Province of                      , }  
County of                      . }

To the peace officers in the county aforesaid.

Whereas on                      , last past, a complaint was made before                      , a justice in and for the said county, for that (*etc., as in the order*), and afterwards, to wit, on                      , at                      , the said parties appeared before                      (*as in the order*), and thereupon the matter of the said complaint having been considered, the said A. B., herein-after called the defaulter, was adjudged to pay to the said C. D. the sum of                      , on or before                      then next, and also to pay to the said C. D. the sum of                      , costs; and that if the said several sums were not paid on or before the said                      then next, the same should be levied by distress and sale of the goods and chattels of the defaulter; and that in default of sufficient distress in that behalf, the defaulter should be imprisoned in the common gaol of the said county, at                      (and there kept at hard labour *if the order so directs*) for the term of                      , unless the said several sums and all costs and charges of the distress (and of the commitment and conveying of the defaulter to the said common gaol) were sooner paid; \*And whereas the time in and by the said order appointed for the payment of the said several sums of                      , and                      has elapsed, and the defaulter has not paid the same, or any part thereof: These are, therefore, to command you, in His Majesty's name, forthwith to make distress of the goods and chattels of the defaulter; and if within the space of                      days after the making of such distress, the said last mentioned sums, together with the reasonable charges of taking and keeping the said distress, are not paid, then to sell the said goods and chattels so by you distrained, and to pay the money arising from such sale unto me: (*or some other of the*



*the convicting justices, as the case may be*); and if no such distress can be found, then to certify such fact unto me.

Given under my hand, this                      day of                      ,  
in the year                      .

J. P., (*name of County.*)

1921, c. 25, s. 24, form 40.

FORM 41.

(Section 741.)

*Warrant of Commitment upon a Conviction imposing a  
Penalty in the first instance.*

Canada,                      }  
Province of                      , }  
County of                      . }

To the peace officers in the said county, and to the keeper  
of the common gaol of the county aforesaid at                      ,  
in the said county.

Whereas A. B., late of                      , (*labourer*), hereinafter  
called the defaulter was on this day convicted before the  
undersigned, for that (*stating the offence, as in the con-  
viction*), and it was thereby adjudged that the defaulter,  
for his offence, should forfeit and pay the sum of  
(*etc., as in the conviction*), and should pay to the said  
C. D. the sum of                      ; and that if the said several sums  
were not paid (forthwith) the defaulter should be im-  
prisoned in the common gaol of the county, at                      , in  
the county aforesaid (and there kept at hard labour *if the  
conviction so adjudges*) for the term of                      , unless the  
said several sums and the costs and charges of the commit-  
ment and of the conveying of the defaulter to the said  
common gaol were sooner paid; And whereas the time in  
and by the said conviction appointed for the payment of the  
said several sums has elapsed, and the defaulter has not  
paid the same, or any part thereof: These are, therefore,  
to command you, to take the defaulter, and him safely to  
convey to the common gaol aforesaid, and there to deliver  
him to the keeper thereof, together with this precept: And  
I do hereby command you, the keeper of the said common  
gaol, to receive the defaulter into your custody in the said  
common gaol, there to imprison him (and keep him at hard  
labour *if the conviction so adjudges*) for the term of                      ,  
unless the said several sums and the costs and charges of  
the commitment and of the conveying of the defaulter to  
the said common gaol are sooner paid unto you; and for  
your so doing, this shall be your sufficient warrant.

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Given

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Given under my hand, this                      day of                      ,  
in the year                      .

J. P., (*name of County.*)  
1921, c. 25, s. 24, form 41.

## FORM 42.

(Section 741.)

*Warrant of Commitment on an Order in the first instance.*

|             |   |
|-------------|---|
| Canada,     | } |
| Province of |   |
| County of   |   |

To the peace officers in the said county and to the keeper  
of the common gaol of the said county, at                      ,  
in the county aforesaid.

Whereas, on                      last past, complaint was made  
before the undersigned for that (*etc., as in the order*),  
and afterwards, to wit, on the                      day of                      ,  
at                      A. B. hereinafter called the defaulter and  
C. D. hereinafter called the complainant appeared before  
me, (*or as it is in the order*), and thereupon having con-  
sidered the matter of the complaint, I adjudged the defaulter  
to pay the complainant the sum of                      on or before  
the                      day of                      then next, and also to  
pay to the complainant the sum of                      , for costs;  
and that if the said several sums were not paid on or before  
the                      day of                      then next, the defaulter  
should be imprisoned in the said common gaol (and there  
be kept at hard labour *if the order so directs*) for the term  
of                      , unless the said several sums and the costs and  
charges of the commitment and of the conveying of the  
defaulter to the said common gaol, were sooner paid: And  
whereas the time in and by the said order appointed for the  
payment of the said several sums of money has elapsed,  
and the defaulter has not paid the same, or any part  
thereof: These are, therefore, to command you, to take the  
defaulter and him safely convey to the said common gaol,  
and there to deliver him to the keeper thereof, together  
with this precept: And I do hereby command you, the said  
keeper of the common gaol, to receive the defaulter into  
your custody in the said common gaol, there to imprison  
him (and keep him at hard labour *if the order so directs*)  
for the term of                      unless the said several sums  
and the costs and charges of the commitment and of con-  
veying him to the said common gaol are sooner paid unto  
you; and for your so doing, this shall be your sufficient war-  
rant.

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Given

Given under my hand this                      day of                      ,  
in the year                      .

J. P., (*name of County.*)

1921, c. 25, s. 24, form 42.

FORM 43.

(Section 741.)

*Constable's Return nulla bona to a Warrant of Distress.*

I, W. T., constable, of                      , in the county of                      ,  
hereby certify to J. S., a justice in and for the said county,  
that by virtue of the attached warrant I have made dili-  
gent search for the goods and chattels of the within men-  
tioned A. B. and that I can find no sufficient goods or  
chattels of the said A. B. whereon to levy the sums in the  
said warrant mentioned.

Witness my hand, this                      day of                      , one thousand  
nine hundred and                      .  
1921, c. 25, s. 24, form 43.

FORM 44.

(Section 741.)

*Warrant for Commitment for Want of Distress.*

Canada,                      }  
Province of                      , }  
County of                      . }

To the peace officers of the county of                      , and to  
the keeper of the common gaol of the said county,  
at                      , in the said county.

Whereas (*etc., as in either of the foregoing distress war-  
rants 39 or 40, to the asterisk,\* and then thus*): And where-  
as afterwards on the                      day of                      , in  
the year aforesaid, I issued a warrant to the proper officers  
in that behalf, to levy the said sums of                      and  
by distress and sale of the goods and chattels of the de-  
faulter; And whereas it appears to me, that the said peace  
officer has made diligent search for the goods and chattels  
of the defaulter, but that no sufficient distress whereon  
to levy the sums above mentioned could be found: These  
are, therefore, to command you, to take the defaulter,  
and him safely to convey to the common gaol at  
aforesaid, and there deliver him to the keeper, together  
with this precept: And I do hereby command you, the said  
keeper, to receive the defaulter into your custody, in the  
said

said common gaol, there to imprison him (and keep him at hard labour *if the order so directs*) for the term of unless the said several sums, and all the costs and charges of the said distress and of the commitment and of the conveying of the defaulter to the said common gaol are sooner paid unto you, and for so doing this shall be your sufficient warrant.

Given under my hand, this                      day of                      ,  
in the year

J. P., (name of County.)

1921, c. 25, s. 24, form 44.

#### FORM 45.

(Section 742.)

#### *Warrant of Distress for Costs upon an Order for Dismissal of an Information or Complaint.*

Canada,                      }  
Province of                      , }  
County of                      . }

To the peace officers in the said county.

Whereas on                      last past, information was laid (or complaint was made) before                      , a justice in and for the said county of                      , for that (*etc., as in the order of dismissal*) and afterwards, to wit, on                      , at                      , both parties appearing before (*me*)                      , in order that (*I*) should hear and determine the same, and the several proofs adduced to (*me*) in that behalf, being by (*me*) duly heard and considered, and it manifestly appearing to (*me*) that the said information (or complaint) was not proved, (*I*) therefore dismissed the same and adjudged that the said C. D., hereinafter called the complainant, should pay to the said A. B. the sum of                      , for costs; and (*I*) ordered that if the said sum for costs was not paid (forthwith) the same should be levied on the goods and chattels of the complainant, and that in default of sufficient distress in that behalf the complainant should be imprisoned in the common gaol of the said county at                      , (and there kept at hard labour *if the order so directed*) for the space of                      unless the said sum for costs, and all costs and charges of the said distress and of the commitment and of the conveying of the complainant to the said common gaol, were sooner paid; \* And whereas the complainant has not paid the said costs or any part thereof: These are, therefore, to command you, in His Majesty's name, forthwith to make distress of the goods and chattels of the complainant,

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and

and if within the term of \_\_\_\_\_ days next after the making of such distress, the said last mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, then to sell the said goods and chattels, and pay the money arising from such sale to (me) that (I) may pay and apply the same as by law directed, and may render the overplus (if any) on demand to the complainant, and if no distress can be found, then to certify such fact unto (me) (or to any other justice for the said county).

Given under my hand, this                      day of                      ,  
in the year                      .

J. P., (name of County).

1921, c. 25, s. 24, form 45.

FORM 46.

(Section 742.)

*Warrant of Commitment for Want of Distress.*

Canada, }  
Province of }  
County of . }

To the peace officers in the said county and to the keeper  
of the common gaol at \_\_\_\_\_, in the county  
aforesaid.

Whereas (*etc., as in form 45 to the asterisk,\* and then thus*): And whereas afterwards, on the                      day of                      , in the year aforesaid, I issued a warrant to the proper officers in that behalf, to levy the said sum of                      , for costs, by distress and sale of the goods and chattels of the complainant: And whereas it appears to me, as well by the return to the said warrant of distress, as otherwise, that the said peace officer has made diligent search for the goods and chattels of the complainant, but that no sufficient distress whereon to levy the sum above mentioned could be found: These are, therefore, to command you, to take the complainant, and him safely convey to the common gaol of the said county, at                      aforesaid, and there deliver him to the keeper thereof, together with this precept: And I hereby command you, the said keeper, to receive the complainant into your custody in the said common gaol, there to imprison him (and keep him at hard labour *if the order so directed*) for the term of                      , unless the said sum, and all the costs and charges of the said distress and of the commitment and of the conveying

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of

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of the complainant to the said common gaol are sooner paid unto you; and for your so doing, this shall be your sufficient warrant.

Given under my hand this                      day of                      ,  
in the year                      .

J. P., (*name of County*).

1921, c. 25, s. 24, form 46.

#### FORM 47.

(Section 743.)

#### *Endorsement in Backing a Warrant of Distress.*

Canada,                      }  
Province of                      , }  
County of                      . }

Whereas proof upon oath has this day been made before me, that the name of J. S. to the within warrant subscribed is of the handwriting of the justice within mentioned, I do therefore authorize W. T., who brings me this warrant, and all other persons to whom this warrant was originally directed, or by whom the same may be lawfully executed, and also all peace officers in the said county to execute the same within the county aforesaid.

Given under my hand, this                      day of                      ,  
one thousand nine hundred and                      .

J. P., (*name of County*).

1921, c. 25, s. 24, form 47.

#### FORM 48.

(Section 748.)

#### *Order for Recognizance to Keep the Peace.*

Canada,                      }  
Province of                      , }  
County of                      . }

Whereas A. B. was charged before me on  
the                      day of                      , A.D.                      , that he  
was guilty of having committed the offence of                      ,  
and after hearing the case against the said A. B., I am  
satisfied that the said offence was committed by the  
accused and that it is expedient that the said accused  
should be required to, and it is hereby ordered and required  
that the said accused do enter into a recognizance (*with*

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*one*

one or more sureties as the justice may deem meet) to keep the peace and to be of good behaviour for a period of months from the date hereof.

Given under my hand this                      day of                      ,  
A.D.                      .

J. P., (name of County).

1921, c. 25, s. 24, form 48.

#### FORM 48A.

(Section 748.)

*Order upon Complaint made for Recognizance to Keep the Peace.*

Canada,                      }  
Province of                      , }  
County of                      . }

Whereas complaint has been made before me upon oath by A. B. of                      , in the said County (or by C. D. on behalf of A. B.) that he the said A. B. is afraid that E. F. will do him, (*his wife and child*) some personal injury (*or will burn or set fire to his property*) and whereas I am satisfied that the said A. B. has reasonable grounds for his fears so complained of; therefore I do hereby order and require you the said E. F. to enter into a recognizance (*with one or more sureties as the justice may deem meet*) to keep the peace and to be of good behaviour for a period of months from the date hereof.

Given under my hand, this                      day of                      ,  
in the year                      .

J. P., (name of County).

1921, c. 25, s. 24, form 48a.

#### FORM 49.

(Sections 748 and 1058.)

*Form of Recognizance to Keep the Peace.*

Canada,                      }  
Province of                      , }  
County of                      . }

Be it remembered that on the                      day of                      ,  
in the year                      , A. B. of                      , (*labourer*),  
L. M. of                      , (*grocer*), and N. O. of                      , (*butcher*),  
personally came before (*us*) the undersigned, and severally  
acknowledged themselves to owe to our Lord the King the  
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several sums following, that is to say: the said A. B. the sum of \_\_\_\_\_, and the said L. M. and N. O. the sum of \_\_\_\_\_, each, to be made and levied of their goods and chattels, lands and tenements respectively, to the use of our said Lord the King, if he, the said A. B., fail in the condition endorsed (*or* hereunder written).

Taken and acknowledged the day and year first above mentioned at \_\_\_\_\_ before us.

J. P., (*name of County.*)

The condition of the within (*or* above) written recognizance is such that if the within bounden A. B. (*of etc.*), keeps the peace and is of good behaviour towards His Majesty and his liege people, and specially towards C. D. (*of etc.*) for the term of \_\_\_\_\_ now next ensuing, then the said recognizance to be void, otherwise to stand in full force and virtue.

1921, c. 25, s. 24, form 49.

#### FORM 50.

(Section 748.)

#### *Form of Commitment in Default of Recognizance.*

|                    |   |
|--------------------|---|
| Canada,            | } |
| Province of _____, |   |
| County of _____.   |   |

To the peace officers in the said county, and to the keeper of the common gaol of the said county, at \_\_\_\_\_.

Whereas on the \_\_\_\_\_ day of \_\_\_\_\_ (*instant*), complaint on oath was made before the undersigned (*or* J. L.), by C. D., of \_\_\_\_\_, in the said county, (*labourer*), that A. B., of (*etc.*), hereinafter called the accused, on the day of \_\_\_\_\_, at \_\_\_\_\_ aforesaid, did threaten (*etc., follow to the end of complaint, as in form above, in the past tense, then*): And whereas the accused was this day brought and appeared before me, (*or* J. L., a justice in and for the said county of \_\_\_\_\_), to answer unto the said complaint; and having been required by me to enter into his own recognizance in the sum of \_\_\_\_\_, with or without two sufficient sureties in the sum of \_\_\_\_\_, each, (*as the case may be*) to keep the peace and be of good behaviour towards His Majesty and his liege people, and especially towards the said C. D., has refused and neglected, and still refuses and neglects, to enter into such recognizance or find such sureties: These are, therefore, to command you, to take the accused and him safely convey to the common gaol at \_\_\_\_\_ aforesaid, and there to deliver him to the keeper thereof, together with this precept:

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cept:



cept: And I do hereby command you, the said keeper of the said common gaol, to receive the accused into your custody in the said common gaol, there to imprison him for the space of \_\_\_\_\_, or until he shall otherwise be discharged in due course of law, unless he, in the meantime, enters into such recognizance or (*finds sufficient sureties*) to keep the peace as aforesaid.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_.

J. P., (*name of County.*)

1921, c. 25, s. 24, form 50.

#### FORM 51.

(Section 750.)

*Form of Recognizance to try the Appeal.*

Canada, }  
Province of \_\_\_\_\_, }  
County of \_\_\_\_\_.

Be it remembered that on \_\_\_\_\_, A. B. of (*labourer*), hereinafter called the accused, and L. M., of \_\_\_\_\_, (*grocer*), and N. O., of \_\_\_\_\_, (*yeoman*), personally came before the undersigned and severally acknowledged themselves to owe to our Lord the King, the several sums following, that is to say, the accused the sum of \_\_\_\_\_, and the said L. M. and N. O. the sum of \_\_\_\_\_, each, to be made and levied of their several goods and chattels, lands and tenements respectively to the use of our said Lord the King, if he the accused fails in the condition endorsed (*or hereunder written*).

Taken and acknowledged the day and year first above mentioned at \_\_\_\_\_, before me.

(*County Judge or as the case may be.*)

The condition of the within (*or the above*) written recognizance is such that if the accused personally appears at the (next) General Sessions of the Peace (*or other court discharging the functions of the Court of General Sessions, as the case may be*), to be holden at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, next, in and for the said county, and tries an appeal against a certain conviction, bearing date the \_\_\_\_\_ day of \_\_\_\_\_, (*instant*), and made by (*me*), whereby he, the accused, was convicted, for that he, the accused, did, on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, in the said county (*here set out the offence as stated in the conviction*); and also abides by the judgment of the court upon such appeal and pays such costs as are by the court awarded, then the said recognizance to be void, otherwise to remain in full force and virtue.

1921, c. 25, s. 24, form 51.

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## FORM 52.

(Section 759.)

*Certificate of Clerk of the Peace that the Costs of an Appeal are not paid.*

Office of the clerk of the peace for the county of .  
(Title of the Appeal.)

I hereby certify that at a Court of General Sessions of the Peace, (*or other court discharging the functions of the Court of General Sessions, as the case may be*), holden at in and for the said county, on last past, an appeal by A. B. against a conviction (*or order*) of J. S., a justice in and for the said county, came on to be tried, and was there heard and determined, and the said Court of General Sessions (*or other court, as the case may be*) thereupon ordered that the said conviction (*or order*) should be confirmed (*or quashed*), and that the said appellant (*or respondent*) should pay to the said respondent (*or appellant*) the sum of costs, and which sum was thereby ordered to be paid to the said clerk of the peace on or before the day of A.D., to be handed over to the said respondent (*or appellant*), and I further certify that the said sum for costs has not, nor has any part thereof, been paid in obedience to the said order.

Dated at , this day of , A.D.

*Clerk of the Peace.*

1921, c. 25, s. 24, form 52.

## FORM 53.

(Section 759.)

*Warrant of Distress for Costs of an Appeal against a Conviction or Order.*

Canada, }  
Province of , }  
County of . }

To the peace officers in the said county.

Whereas (*etc., as in the warrants of distress, forms 39 or 40, and to the end of the statement of the conviction or order, and then thus*): And whereas the defaulter appealed to and the appeal was heard by the Court of General Sessions of the Peace (*or other court discharging the functions of the Court of General Sessions, as the case may be*), for the said county against the said conviction or order, in which appeal the said C. D. (*or J. S., the justice who made the said conviction or order*) was the respondent, and

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the

the said court thereupon ordered that the said conviction (or order) should be confirmed (or quashed) and that the said appellant (or respondent) should pay to the said respondent (or appellant) the sum of \_\_\_\_\_ costs, which said sum was to be paid to the clerk of the peace for the said county, on or before the \_\_\_\_\_ day of \_\_\_\_\_, one thousand nine hundred and \_\_\_\_\_ to be by him handed over to the said C. D. (or A. B.) and whereas the said clerk of the peace has, on the \_\_\_\_\_ day of \_\_\_\_\_ (*instant*), duly certified that the said sum for costs had not been paid: \*These are, therefore, to command you, in His Majesty's name, forthwith to make distress of the goods and chattels of the defaulter (or C. D.), and if, within the term of \_\_\_\_\_ days next after the making of such distress the said last mentioned sum, together with the reasonable charges of taking and keeping the said distress, are not paid, then to sell the said goods and chattels, and to pay the money arising from such sale to the said clerk of the peace, and if no such distress can be found, then to certify such fact unto me or any other justice for the said county.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_.

J. P., (*name of County*).

1921, c. 25, s. 24, form 53.

FORM 54.

(Section 759).

*Warrant of Commitment for want of Distress under  
Warrant Form 53.*

Canada, }  
Province of , }  
County of . }

To the peace officers in the said county, and to the keeper of the common gaol of the said county at

Whereas (*etc., as in form 53, to the asterisk\* and then thus*): And whereas, afterwards, on the \_\_\_\_\_ day of \_\_\_\_\_ in the year aforesaid, I, the undersigned, issued a warrant to levy the said sum of \_\_\_\_\_, for costs, by distress and sale of the goods and chattels of the defaulter (or C. D.); And whereas it appears to me, as well by the return to the said warrant of distress as otherwise, that the peace officer has made diligent search for the goods and chattels of the defaulter (or C. D.), but no sufficient distress whereon to levy the said sum above mentioned, could be found: These are, therefore, to command you, the said peace officers, or

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any

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any one of you, to take the defaulter (*or C. D.*), and him safely convey to the common gaol of the said county, at aforesaid, and there deliver him to the keeper thereof, together with this precept: And I do hereby command you, the said keeper of the said common gaol, to receive the defaulter (*or C. D.*) into your custody in the said common gaol, there to imprison him for the term of , unless the said sum and all costs and charges of the said distress and of the commitment and of the conveying of the defaulter (*or C. D.*) to the said common gaol, are sooner paid unto you; and for so doing this shall be your sufficient warrant.

Given under my hand this                      day of ,  
in the year                      .

J. P., (*name of County*).

1921, c. 25, s. 24, form 54.

#### FORM 55.

(Section 799).

#### *Conviction.*

Canada,                      }  
Province of                      , }  
County of                      . }

Be it remembered that on the                      day of  
in the year                      , at                      , A. B., hereinafter called  
the accused, being charged before me, the undersigned,  
(and consenting to my trying the charge summarily), is  
convicted before me, for that he the accused (*etc., stating  
the offence, and the time and place when and where com-  
mitted*), and I adjudged the accused for his said offence,  
to be imprisoned in the                      (and there kept at  
hard labour, *if it is so adjudged*) for the term of                      .

Given under my hand, the day and year first above men-  
tioned.

Police Magistrate

for

(*or as the case may be*).

1921, c. 25, s. 24, form 55.

#### FORM 56.

(Section 799.)

#### *Conviction upon a Plea of Guilty.*

Canada,                      }  
Province of                      , }  
County of                      . }

Be it remembered that on the                      day of                      ,  
A. D.                      , at                      , A. B., hereinafter called the  
accused, being charged before me, (and consenting to my  
trying

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trying the charge summarily), for that he, the accused, (*etc., stating the offence, and the time and place when and where committed*), and pleading guilty to such charge, he is thereupon convicted before me of the said offence; and I adjudge him, the accused, for his said offence, to be imprisoned in the (and there kept at hard labour, *if it is so adjudged*) for the term of .

Given under my hand, the day and year first above mentioned.

Police Magistrate

for

(*or as the case may be*).

1921, c. 25, s. 24, form 56.

#### FORM 57.

(Section 799.)

#### *Certificate of Dismissal.*

Canada, }  
Province of , }  
County of . }

I, the undersigned, certify that on the day of , in the year , at , A. B., being charged before me (and consenting to my trying the charge summarily), for that he, the said A. B. (*etc., stating the offence charged, and the time and place when and where alleged to have been committed*), I did, after having summarily tried the said charge, dismiss the same.

Given under my hand this day of , in the year .

Police Magistrate

for

(*or as the case may be*).

1921, c. 25, s. 24, form 57.

#### FORM 58.

(Section 813.)

#### *Certificate of Dismissal.*

Canada, }  
Province of , }  
County of . }

, justices for the of  
(*or if a recorder,*  
*etc., I, a* , of the

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of

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of \_\_\_\_\_, *as the case may be*), do hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, at \_\_\_\_\_, in the said \_\_\_\_\_ of \_\_\_\_\_, A. B. was brought before us, the said justices (*or me*, the said \_\_\_\_\_), charged with the following offence, that is to say (*here state briefly the particulars of the charge*), and we thereupon dismissed the said charge.

Given under (*our*) hands, this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, 1921, c. 25, s. 24, form 58.

## FORM 59.

(Section 814.)

*Conviction.*

Canada, }  
Province of }  
County of }

Be it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, at \_\_\_\_\_, in the county of \_\_\_\_\_, A. B., hereinafter called the accused, is convicted before us (*or me*),

(*or as the case may be*) for that he, the said A. B., did (*specify the offence and the time and place when and where the same was committed, as the case may be, but without setting forth the evidence*), and we (*or I*), adjudge the accused, for his said offence, to be imprisoned in the \_\_\_\_\_ with (*or without*) hard labour (*in the discretion of the justice*) for the space of \_\_\_\_\_, (*or we*) (*or I*) adjudge the accused, for his said offence, to forfeit and pay (*here state the penalty actually imposed*), and in default of immediate payment of the said sum, to be imprisoned in the \_\_\_\_\_ with (*or without*) hard labour (*in the discretion of the justice*) for the term of \_\_\_\_\_, unless the said sum is sooner paid.

Given under our hands the day and year first above mentioned.  
1921, c. 25, s. 24, form 59.

## FORM 60.

(Section 827.)

*Form of Record when the Prisoner Pleads Guilty.*

Canada, }  
Province of }  
County of }

Be it remembered that A. B., hereinafter called the accused being a prisoner in the gaol of the said county, on a charge of having on the \_\_\_\_\_ day of \_\_\_\_\_, in the

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year

year , stolen, etc. (*one cow the property of C. D., or as the case may be, stating briefly the offence*) and being brought before me (*describe the judge*) on the day of , in the year , and asked by me if he consented to be tried before me without the intervention of a jury, consented to be so tried; and that the accused being then arraigned upon the said charge, he pleaded guilty thereof, whereupon I sentenced the accused to (*here insert such sentence as the law allows and the judge thinks right*).

Witness my hand this day of , in the year .

Judge.

1921, c. 25, s. 24, form 60.

FORM 61.

(Section 833.)

*Form of Record when the Prisoner Pleads Not Guilty.*

Canada, }  
Province of , }  
County of . }

Be it remembered that A. B. being a prisoner in the gaol of the said county, committed for trial on a charge of having on day of , in the year stolen, etc. (*one cow, the property of C. D., or as the case may be, stating briefly the offence*) and having been brought before me (*describe the judge*) on the day of , in the year , and asked by me if he consented to be tried before me without the intervention of a jury, consented to be so tried; and that upon the day of , in the year , the said A. B., being again brought before me for trial, and declaring himself ready, was arraigned upon the said charge and pleaded not guilty; and after hearing the evidence adduced, as well in support of the said charge as for the prisoner's defence (*or as the case may be*), I find him to be guilty of the offence with which he is charged as aforesaid, and I accordingly sentence him to (*here insert such sentence as the law allows and the judge thinks right*), (*or I find him not guilty of the offence with which he is charged, and discharge him accordingly*).

Witness my hand at , this day of , in the year .

Judge.

1921, c. 25, s. 24, form 61.

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R.S., 1927.

## FORM 62.

(Section 842.)

*Warrant to apprehend Witness.*

|             |   |
|-------------|---|
| Canada,     | } |
| Province of |   |
| County of   |   |

To the peace officers in the said county.

Whereas it having been made to appear to me, that E. F. of , in the county aforesaid, hereinafter called the witness, is likely to give material evidence on behalf of the prosecution (*or defence, as the case may be*) on the trial of a certain charge of (*as theft, or as the case may be*), against A. B., and that the witness was duly subpoenaed (*or bound under recognizance*) to appear on the day of , in the year , at , in the said county at o'clock (forenoon or afternoon, *as the case may be*), before me, to testify what he knows concerning the said charge.

And whereas proof has this day been made before me, upon oath of such subpoena having been duly served upon the witness, (*or of the witness having been duly bound under recognizance to appear before me, as the case may be*); and whereas the witness has neglected to appear at the trial and place appointed, and no just excuse has been offered for such neglect: These are, therefore, to command you to take the witness, and to bring him forthwith before me, to testify what he knows concerning the said charge, and also to answer his contempt for such neglect.

Given under my hand this day of ,  
in the year .

*Judge.*

1921, c. 25, s. 24, form 62.

## FORM 63.

(Sections 845 and 856.)

*Headings of Indictment.*

In the (*name of the court in which the indictment is found*).

The jurors for our Lord the King present that  
(*Where there are more counts than one, add at the beginning of each count*):

"The said jurors further present that ."

1921, c. 25, s. 24, form 63.

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## FORM 64.

(Section 852.)

*Examples of the Manner of Stating Offences.*

(a) A. murdered B. at \_\_\_\_\_, on \_\_\_\_\_.

(b) A. stole a sack of flour from a ship called the \_\_\_\_\_,  
at \_\_\_\_\_, on \_\_\_\_\_.(c) A. obtained by false pretenses from B., a horse, a  
cart and the harness of a horse at \_\_\_\_\_, on \_\_\_\_\_.(d) A. committed perjury with intent to procure the  
conviction of B. for an offence punishable with penal  
servitude, namely robbery, by swearing on the trial of B.  
for the robbery of C. at the Court of Quarter Sessions for  
the county of Carleton, held at Ottawa, on the  
day of \_\_\_\_\_, 19\_\_\_\_; first, that he, A., saw B. at  
Ottawa, on the \_\_\_\_\_ day of \_\_\_\_\_; secondly,  
that B. asked A. to lend B. money on a watch belonging  
to C.; thirdly, etc.

or

(e) The said A. committed perjury on the trial of B.  
at a Court of Quarter Sessions held at Ottawa on \_\_\_\_\_  
for an assault alleged to have been committed by the said  
B. on C. at Ottawa, on the \_\_\_\_\_ day of \_\_\_\_\_ by  
swearing to the effect that the said B. could not have been  
at Ottawa, at the time of the alleged assault, inasmuch  
as the said A. had seen him at that time in Kingston.(f) A., with intent to maim, disfigure, disable or do  
grievous bodily harm to B. or with intent to resist the  
lawful apprehension or detainer of A. (or C.), did actual  
bodily harm to B. (or D.).(g) A., with intent to injure or endanger the safety of  
persons on the Canadian Pacific Railway, did an act calcu-  
lated to interfere with an engine, a tender, and certain  
carriages on the said railway on \_\_\_\_\_ at \_\_\_\_\_  
by (*describe with so much detail as is sufficient to give the  
accused reasonable information as to the acts or omissions  
relied on against him, and to identify the transaction*).(h) A. published a defamatory libel on B. in a certain  
newspaper, called the \_\_\_\_\_, on the \_\_\_\_\_ day  
of \_\_\_\_\_ 19\_\_\_\_, which libel was contained in an  
article headed or commencing (*describe with so much  
detail as is sufficient to give the accused reasonable infor-  
mation as to the part of the publication to be relied on  
against him*), and which libel was written in the sense of  
imputing that the said B. was (*as the case may be*).  
1921, c. 25, s. 24, form 64.

## FORM 65.

(Section 879.)

*Certificate of Indictment being Found.*

|             |   |
|-------------|---|
| Canada,     | } |
| Province of |   |
| County of   |   |

I hereby certify that at a Court of (Oyer and Terminer, or General Gaol Delivery, or General Sessions of the Peace) holden in and for the county of \_\_\_\_\_, at \_\_\_\_\_, in the said (county), on \_\_\_\_\_, a bill of indictment was found by the grand jury against A. B., therein described as A. B., late of \_\_\_\_\_, (labourer), for that he (*etc., stating shortly the offence*), and that the said A. B. has not appeared or pleaded to the said indictment.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_.

(Title of officer.)

1921, c. 25, s. 24, form 65.

## FORM 66.

(Section 880.)

*Warrant to Apprehend a Person Indicted.*

|             |   |
|-------------|---|
| Canada,     | } |
| Province of |   |
| County of   |   |

To the peace officers in the said county.

Whereas it has been duly certified by J. D., clerk of the (*name of court*) (or E. G., deputy clerk of the Crown or clerk of the peace, or as the case may be), in and for the county of \_\_\_\_\_, that (*etc., stating the certificate*): These are, therefore, to command you in His Majesty's name forthwith to apprehend the said A. B., and to bring him before (*me*) or some other justice in and for the said county, to be dealt with according to law.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_.

J. P., (*name of County*.)

1921, c. 25, s. 24, form 66.

## FORM 67.

(Section 881.)

*Warrant of Commitment of a Person Indicted.*

Canada,                     }  
Province of                 },  
County of                 }.

To the peace officers in the said county, and the keeper of  
the common gaol, at                     , in the said county  
of                     .

Whereas by a warrant under the hand of                     ,  
(a) justice in and for the said county, dated                     ,  
after reciting that it had been certified by J. D. (*etc., as in  
the certificate*), the said justice commanded all or any of  
the constables or peace officers of the said county, in His  
Majesty's name, forthwith to apprehend the said A. B.,  
hereinafter called the accused, and to bring him before  
(*him*) the said justice or before some other justice in and  
for the said county, to be dealt with according to law;  
and whereas the accused has been apprehended under and  
by virtue of the said warrant, and being now brought be-  
fore (*me*) it is hereupon duly proved to (*me*) upon oath  
that the accused is the same person who is named and  
charged as aforesaid in the said indictment: These are  
therefore to command you, in His Majesty's name, forth-  
with to take and convey the accused to the said common  
gaol at                     , and there to deliver him to the keeper  
thereof, together with this precept: And (*I*) hereby com-  
mand you the said keeper to receive the accused into your  
custody in the said gaol, and him there safely to keep until  
he shall thence be delivered by due course of law.

Given under (*my*) hand this                     day of                     in the  
year                     .

J. P., (*name of County*).

1921, c. 25, s. 24, form 67.

## FORM 68.

(Section 882.)

*Warrant to detain a Person indicted who is already in Custody for another Offence.*

Canada, }  
 Province of , }  
 County of . }

To the keeper of the common gaol at , in the said county.

Whereas it has been duly certified by J. D., clerk of the (*name the court*) (or deputy clerk of the Crown or clerk of the peace of and for the county of , (or as the case may be), that (*etc., stating the certificate*); And whereas (*I am*) informed that the said A. B., hereinafter called the accused, is in your custody in the said common gaol charged with some offence, or other matter; and it being now duly proved upon oath before (*me*) that the accused, indicted as aforesaid, and the said A. B., in your custody, are one and the same person: These are therefore to command you, in His Majesty's name, to detain the accused in your custody in the common gaol aforesaid, until by a writ of *habeas corpus* he shall be removed therefrom, for the purpose of being tried upon the said indictment, or until he shall otherwise be removed or discharged out of your custody by due course of law.

Given under (*my*) hand this day of , in the year .

J. P., (*name of County*.)

1921, c. 25, s. 24, form 68.

## FORM 69.

(Section 925.)

*Challenge to Array.*

Canada, }  
 Province of , }  
 County of . }

The King } A. B., who prosecutes for our Lord the King  
 v. } (or C. D., who represents the accused) chal-  
 C. D. } lenges the array of the panel on the ground  
 that it was returned by X. Y., sheriff (or E. F., deputy  
 sheriff) of the county of and  
 that the said X. Y. (or E. F., as the case may be) was  
 guilty of partiality (or fraud, or wilful misconduct) on  
 returning said panel.

1921, c. 25, s. 24, form 69.

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FORM

## FORM 70.

(Section 936.)

*Challenge to Poll.*

|             |   |
|-------------|---|
| Canada,     | } |
| Province of |   |
| County of   |   |

The King } A. B., who prosecutes, *etc.* (or C. D., who  
 v. } represents the accused) challenges G. H., on  
 C. D. } the ground that his name does not appear in  
 the panel, [or that he is not indifferent between the King  
 and the said C. D., or that he was convicted and sentenced  
 to death, or penal servitude, or imprisonment with hard  
 labour, or exceeding twelve months, or that he is an alien.]  
 1921, c. 25, s. 24, form 70.

## FORM 71.

(Section 1068.)

*Certificate of Execution of Judgment of Death.*

I, A. B., surgeon (or as the case may be) of the (*describe the prison*), hereby certify that I, this day, examined the body of C. D. on whom judgment of death was this day executed in the said prison; and that on such examination I found that the said C. D. was dead.

(Signed), A. B.

Dated this            day of            , in the year            .  
 1921, c. 25, s. 24, form 71.

## FORM 72.

(Section 1068.)

*Declaration of Sheriff and Others.*

We, the undersigned, hereby declare that judgment by death was this day executed on C. D., in the (*describe the prison*) in our presence.

Dated this            day of            , in the year            .

Sheriff of—

Justice of the Peace for—

Gaoler of—

etc.,            etc.

1921, c. 25, s. 24, form 72.

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FORM  
R.S., 1927.

## FORM 73.

(Section 1097.)

*Certificate of Non-appearance to be endorsed on the Defendant's Recognizance.*

I hereby certify that the within A. B. has not appeared at the time and place in the within recognizance mentioned, but therein has made default, by reason whereof the within written recognizance is forfeited.

Dated at

J. P., (*name of County.*)

1921, c. 25, s. 24, form 73.

## FORM 74.

(Section 1105.)

*Writ of Fieri Facias and Capias.*

George V, by the Grace of God, etc.

To the sheriff of , greeting:

You are hereby commanded to levy of the goods and chattels, lands and tenements, of each of the persons mentioned in the roll or extract to this writ annexed, all and singular the debts and sums of money upon them severally imposed and charged, as therein is specified; and if any of the said several debts cannot be levied, by reason that no goods or chattels, lands or tenements can be found belonging to the said persons, respectively, then, and in all such cases, that you take the bodies of such persons, and keep them safely in the gaol of your county, there to abide the judgment of our court (*as the case may be*) upon any matter to be shown by them, respectively, or otherwise to remain in your custody as aforesaid, until such debt is satisfied unless any of such persons respectively give sufficient security for his appearance at the said court, on the return day hereof, for which you will be held answerable; and what you do in the premises make appear before us in our court (*as the case may be*), on the day of term next, and have then and there this writ.

Witness, etc., G. H., clerk (*as the case may be*).

1921, c. 25, s. 24, form 74.

**FORM 75.**

(Section 1133.)

*Justices' Return.*

RETURN of convictions made by me (or us, as the case may be), during the quarter ending \_\_\_\_\_, 19\_\_.

| Name of the Prosecutor. | Name of the Defendant. | Nature of the Charge. | Date of Conviction. | Name of Convicting Justice. | Amount of Penalty. Fine or Damage. | Time when paid or to be paid to the said Justice. | To whom paid over by the said Justice.                 |
|-------------------------|------------------------|-----------------------|---------------------|-----------------------------|------------------------------------|---------------------------------------------------|--------------------------------------------------------|
|                         |                        |                       |                     |                             |                                    |                                                   | If not paid, why not, and general observations if any. |

### Convicting Justice(s).

1921, c. 25, s. 24, form 75.

FORM 76.

(Section 118.)

*Weapon Permit.*

(Insert name and place of issue and date.)

Permission is hereby given to \_\_\_\_\_ (insert name of holder of permit) of \_\_\_\_\_, to carry (insert character of weapon) for (insert duration of permit.)

## Reason for Granting Permit.

*(Here are to be inserted the reasons for issuing permit.)*

(Name and office of person issuing permit.)

1921, c. 25, s. 24, form 76.